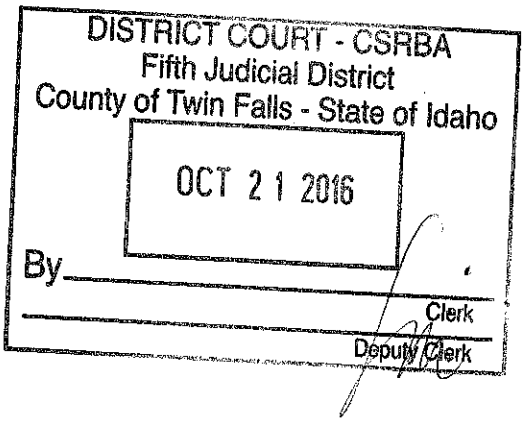
10-21-2016

Affidavit of I. Smith

Ian Smith
Senior Historian, Historial Research Associates



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IN THE DISTRICT COURT FOR THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS

In Re the CSRBA	) Consolidated Subcase No. 91-7755
Case No. 49576	) **AFFIDAVIT OF IAN SMITH**

State of Montana)
)
County of Missoula)

I, Ian Smith, being first duly sworn, state the following:

1. I am a competent adult over the age of eighteen years, and the statements made herein are based on my own personal knowledge of the events described or upon my research of historical documents of a type that are customarily relied upon by historians.

2. I am currently employed as a Senior Historian at Historical Research Associates ("HRA"). My business address is 125 Bank St. Suite 500, Missoula, MT 59802. A true and correct copy of my resume is attached as Appendix A to my November 30, 2015 report, "*Historical Examination of the Purposes for the Creation of the Coeur d'Alene Indian Reservation.*"

3. In the context of this Consolidated Subcase regarding water rights claimed for the Coeur d'Alene Indian Reservation in the Coeur d'Alene-Spokane River Basin Adjudication, the United States hired me to prepare a report regarding the purpose of the Coeur d'Alene Indian Reservation including a review of the historical circumstances surrounding the establishment of the Reservation. The statements in my report are based upon my personal knowledge, including that gained as a result of my research in this case, or my professional opinion, or both.

4. Attached to this Affidavit are true and correct copies of the following documents that I prepared in this case:

Ex. 1 – *Historical Examination of the Purposes for the Creation of the Coeur d'Alene Indian Reservation*, dated November 30, 2015.

Ex. 2 - *A Response to the Expert Report of Stephen Wee Regarding the Establishment of and Purposes for the Coeur d'Alene Indian Reservation*, dated May 26, 2016.

5. The two Reports attached hereto are based on historical documents that were labeled and provided in disclosures to the other parties in this case. The historical documents referenced in the two Reports are also attached to this Affidavit.

6. My opinions set forth in Exhibits 1 and 2 noted above are held to a reasonable degree of probability and certainty in my respective field of expertise.

DATED this 18 day of October, 2016.

Ian Smith

Subscribed and sworn before me this 18 day of October, 2016

M. L. STOLL NOTARIAL SEAL STATE OF MONTANA

M. L. STOLL
NOTARY PUBLIC for the
State of Montana
Residing at Missoula, Montana
My Commission Expires
September 01, 2019

Notary Public for Montana

Residing at Missoula, Montana

My Commission expires: September 01, 2019

Historical Examination of the Purposes for the Creation of the Coeur d'Alene Indian Reservation

Submitted to:
U.S. Department of Justice

Submitted by:
Historical Research Associates, Inc.
Ian Smith, M.A.

Missoula, Montana
November 30, 2015

HISTORICAL
RESEARCH
ASSOCIATES, INC.

Exhibit 1 to Affidavit of Ian Smith

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1. Introduction and Summary of Opinions

In April 2015, the U.S. Department of Justice (DOJ) contracted with Historical Research Associates, Inc. (HRA) to conduct research and provide expert historical analysis of the purposes for the creation of the Coeur d'Alene Indian Reservation in northern Idaho. Attorneys with the DOJ and the Department of the Interior Solicitor's Office (DOI-Solicitor) requested this historical analysis in relation to the Coeur d'Alene Indian Tribe's water rights claims in the Coeur d'Alene–Spokane River Basin Adjudication, which is currently under consideration in the State of Idaho's Fifth Judicial District for Twin Falls County in Case No. 49576.

Initially created by executive order in June 1867, the Coeur d'Alene Reservation was enlarged through a subsequent executive order dated November 8, 1873, which resulted from July 1873 negotiations with tribal leaders. Although the Tribe's July 1873 agreement was not ratified, Congress confirmed the 1873 reservation boundaries by enacting an 1891 law that approved a March 1887 agreement with the Coeur d'Alene Tribe. The report that follows will examine, in detail, the events that led to the reservation's establishment—including the above-mentioned series of executive orders, agreements, and legislation—and analyze the purposes for its creation.

I am a senior historian at HRA in Missoula, Montana, where I have worked for the past fifteen years on litigation-support projects primarily involving Native American land and water rights issues on Indian reservations throughout the West, including the Flathead Reservation in Montana, the Agua Caliente and Fort Yuma Reservations in California, the Red Lake Reservation in Minnesota, the Navajo Reservation in Arizona/New Mexico, and the Southern Ute Reservation in Colorado, among many others. I have also served as an expert witness in litigation, providing testimony in trial and deposition settings in federal district courts in both Montana and Minnesota. I earned a Master of Arts (M.A.) in history from the University of Montana, with an emphasis on Native American history, environmental history, and the history of the American West. My M.A. thesis examined environmental and agricultural change on Quechan Indian lands on the Fort Yuma Indian Reservation in southeastern California.

See Appendix A for a complete copy of my resume, which describes, in greater detail, my project-based experience at HRA over the past fifteen years, as well as outlining my education, degrees earned, and my thesis work. Appendix B states my billing rate for the current project and indicates the cases for which I have been identified or provided testimony as an expert witness. Assisting me with the research for this project were research historians in HRA's offices in Missoula, Montana, and Washington, D.C.

To support the needs of the DOJ in this case, HRA historians, working under my direction, researched a wide range of historical and ethnographic materials relating to the Tribe's uses of

waterways within its aboriginal territory and the intent of Coeur d'Alene leaders and government officials in establishing the Coeur d'Alene Reservation. In addition to reviewing the initial exhibits disclosed by the United States in Case No. 49576—most of which were previously disclosed in federal court during the Tribe's 1990s lakebed case, which resulted in a 2001 U.S. Supreme Court ruling in *Idaho v. United States* (533 U.S. 262)—HRA historians also conducted further research at the National Archives, in targeted National Archives microfilm series, in congressional and government documents, and in recently published secondary sources to supplement the existing historical record in this case.

Based on a review of these documents, it is my opinion that the intent of the federal government and the Tribe in creating the Coeur d'Alene Indian Reservation was to provide a permanent homeland for tribal members within a portion of their aboriginal territory. The homeland established by the 1873 executive order not only anticipated agricultural uses of reservation lands, but also allowed for tribal members to continue their seasonal cycles of hunting, fishing, and gathering—activities that relied heavily on the numerous rivers, lakes, springs, marshes, and other aquatic resources situated within the 1873 reservation boundaries. Coeur d'Alene leaders explicitly indicated the importance of these waterways and the Tribe's traditional subsistence activities during the period leading up to the issuance of the 1873 executive order. In a November 1872 petition, tribal leaders told the Interior Department that the valleys of the Coeur d'Alene and St. Joe Rivers were "from old the habitual residence of most of us" and that the Tribe was "unanimous" in asking for the inclusion of these valleys in their reservation. Moreover, although tribal members had begun to incorporate agriculture into their traditional lifeways by the 1870s, the leaders stated:

> We think it hard to leave at once old habits to embrace new ones: for a while yet we need have some hunting and fishing.[1]

Activities such as fishing, hunting, gathering, berry picking, and water-based travel played a vital role in the subsistence patterns of the Coeur d'Alene Indians. Anthropological studies reveal the fundamental importance of these pursuits to tribal members in the pre-reservation era, as well as the deep connection between these activities and the numerous waterways located within Coeur d'Alene territory. In short, water has been essential to both the physical and cultural existence of the Tribe for millennia, with Lake Coeur d'Alene forming both the literal and figurative heart of tribal territory since time immemorial. Meanwhile, the principal tributaries that feed into and flow from the lake—the Coeur d'Alene, St. Joe, St. Maries, and Spokane Rivers—have served myriad purposes, including locations for village sites, routes for transportation, and sources of "food, fiber . . . recreation, and cultural activities."[2] These waterways offered tribal members an array of materials essential to their

[1] Petition of the "Chiefs and People of the Coeurs D'Alene," November 18, 1872, C-417, Roll 912, National Archives Microfilm Publication M234: *Letters Received by the Office of Indian Affairs, 1824–1881* [hereinafter cited as M234], frames 868–872, USA-CDA00021418.

[2] *Idaho v. United States, et al.*, 533 U.S. 262 at 265 (2001), USA-CDA00021648.

sustenance, ranging from fish and big game to water potatoes, berries, and camas roots. Moreover, water played a significant role in Coeur d'Alene mythology, language, and cultural practices.

The extensive reliance of tribal members on the waterways within their aboriginal territory did not end with the arrival of the Jesuits in the early 1840s, nor did it conclude with the close of the federal government's treaty-making efforts in the 1860s. Instead, historical evidence from these decades clearly shows ongoing use of the rivers, lakes, and other water bodies within Coeur d'Alene territory for fishing, hunting, gathering, berry picking, and transportation, in addition to agricultural purposes. For example, Father Nicholas Point, who accompanied tribal members on hunting and fishing expeditions in 1842–1843, stated that the region "abounds in fish no less than in game animals." Point further claimed that the Coeur d'Alenes' typical catch was "usually so abundant that canoes are filled and emptied within a space of a few hours."[3] Similarly, describing the water-based hunting techniques of Coeur d'Alene tribal members in the mid-1840s, Father Joseph Joset indicated that he had witnessed instances where "the tribe has killed as many as three hundred roebucks in one day."[4]

The reports and journals of the government and military officials who encountered the Coeur d'Alene Indians in the 1850s and 1860s likewise reflected the continued importance of traditional, water-based subsistence activities among tribal members. While Washington Territorial Governor Isaac Stevens was "much struck" by the Coeur d'Alenes' "large fields" and "civilized condition" after his first meeting with them in 1853,[5] he also indicated that they continued to "procure their subsistence in the summer by hunting and fishing." Stevens additionally reported on autumn 1853 meetings with tribal members who were "occupied with their trout fisheries" on the upper Spokane River, and he marveled at the Indians' "ingenious method of hunting deer," which reportedly enabled them to kill "more than 400" deer "in one hunt."[6]

Although Stevens intended to negotiate a treaty with the Coeur d'Alenes in 1855, the outbreak of the Yakama War that year caused him to diverge from his original plans and, in turn, fail to treat with the Tribe. The lack of a treaty-defined reservation, coupled with an increasing amount of non-Indian encroachment into Coeur d'Alene territory, led to the Tribe's lone military engagement with the United States in 1858. Documents written during the 1858 Northern Plateau War continued to

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[3] Nicholas Point, *Wilderness Kingdom: Indian Life in the Rocky Mountains, 1840–1847. The Journals and Paintings of Nicholas Point, S. J.*, ed. and trans. Joseph P. Donnelly (New York: Holt, Rinehart and Winston, 1967), 174–175, USA-CDA00002715.

[4] Joseph Joset to Father Fouillot, in Pierre-Jean De Smet, "Missions of the Rocky Mountains," in vol. 7 of *Annals of the Propagation of the Faith* (1846), 373, USA-CDA00001318.

[5] Isaac I. Stevens, Gov. and Supt., Washington Territory, to the Commissioner of Indian Affairs, December 6, 1853, W-303, Roll 907, M234, frames 87–94, USA-CDA00021134.

[6] Isaac I. Stevens, *Narrative and Final Report of Explorations for a Route for a Pacific Railroad Near the Forty-Seventh and Forty-Ninth Parallels of North Latitude, from St. Paul to Puget Sound*, in House, *Reports of Explorations and Surveys, to Ascertain the Most Practicable and Economical Route for a Railroad from the Mississippi River to the Pacific Ocean*, Vol. 12, Book 1, 36th Congress, 1st session, 1860, H. Ex. Doc. 56, serial 1054, 132–134 [hereinafter cited as Stevens, *Narrative and Final Report of Explorations*], USA-CDA00003387.

show the importance of fishing, hunting, gathering, and riverine travel for tribal subsistence. For example, a Jesuit priest reported that it took him "over three weeks" to locate the "scattered" Coeur d'Alene bands in the summer of 1858, noting that they were living "at great distances from each other, some fishing, others digging roots or gathering fruits, and making provision for winter."[7] Notably, after signing a September 1858 peace treaty, Coeur d'Alene tribal members assisted military officials in crossing both the Coeur d'Alene and St. Joe Rivers by providing them with canoes.[8]

Tribal accounts from this period further reveal the enduring significance of traditional village sites and subsistence activities among the Coeur d'Alenes. Joseph Seltice—whose description of this period is based on oral narrations provided by his father, Chief Andrew Seltice, prior to his death in 1902—wrote that the Tribe "always had a good supply of meat and fish" in the years leading up to the 1858 war. He additionally indicated that the river basins throughout the Coeur d'Alene region were "well stocked with elk, deer and fish" and that all tribal families continued their seasonal rounds of huckleberry picking, camas digging, hunting, and fishing throughout the 1850s and 1860s. Seltice also provided clear evidence of the wide geographic distribution of Coeur d'Alene bands through the 1860s, stating that tribal members continued to occupy traditional village sites located throughout their aboriginal territory, including at Lake Coeur d'Alene, Hayden Lake, Benewah Lake, Liberty Lake, Seltice Lake, Post Falls, Coeur d'Alene, Colfax, and Potlach, as well as along the Coeur d'Alene, St. Joe, St. Maries, and Spokane Rivers.[9]

The importance of traditional, water-based subsistence activities was also a common theme in the reports submitted by the government officials who participated in the construction of the Mullan Road in the early 1860s. This wagon route—which connected the Missouri and Columbia Rivers by land from Fort Benton, Montana, to Walla Walla, Washington—passed directly through Coeur d'Alene territory, following the Coeur d'Alene River to Lake Coeur d'Alene, then along the lake's east and north banks toward Spokane. As such, the officials who worked on the road often encountered tribal members—and frequently relied on them as guides—during their expeditionary treks west of the Rocky Mountains. Like Stevens a decade earlier, Captain John Mullan (after whom the road was named) was impressed by the Coeur d'Alenes' farming endeavors. However, he also reported that, in the mid-1860s, tribal members still relied heavily on hunting, fishing, and gathering, and many continued to reside in traditional village sites "along the Coeur d'Alene and St. Joseph's rivers."[10]

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[7] Father Congiato to General Clarke, August 3, 1858, in Senate, *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 372, USA-CDA00003865.

[8] G. Wright, Colonel, 9th Infantry, to Major W. W. Mackall, Assistant Adjutant General, September 21, 1858, in *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 398, USA-CDA00003865.

[9] Edward J. Kowrach and Thomas E. Connolly, eds., *Saga of the Coeur D'Alene Indians: An Account of Chief Joseph Seltice* (Fairfield, WA: Ye Galleon Press, 1990), 9–10, 82–84, 151–155, 171–174, 178–179, 189–191, 202–203, 224–228, USA-CDA00001740.

[10] Captain John Mullan, *Report on the Construction of a Military Road from Fort Walla-Walla to Fort Benton*, in Senate, 37th Congress, 3d session, February 19, 1863, S. Ex. Doc. 43, Serial 1149, 30, 42, 49, USA-CDA00021293; Captain John

... continued on next page

Despite this, the reservation initially created for the Coeur d'Alene Tribe in 1867 encompassed only a small portion of their aboriginal territory, situated mainly along Hangman Creek near present-day DeSmet, Idaho. Moreover, as originally drawn, the reservation's boundaries excluded the vast majority of the Tribe's traditional village sites and use areas along Lake Coeur d'Alene and the Coeur d'Alene, Spokane, St. Joe, and St. Maries Rivers.[11] Historical evidence indicates that the Tribe was not consulted about the 1867 reservation and likely remained unaware of its establishment until the early 1870s. Upon learning of the reservation's limited size, tribal leaders promptly petitioned federal officials in 1872 to request the inclusion of "the two valleys of S. Joseph and Coeurs D'alene rivers" and to secure "some kind of title" to an expanded reservation. As noted above, they also indicated the continued importance of hunting and fishing to their subsistence cycles.[12]

Government officials echoed Coeur d'Alene leaders' calls for the inclusion of tribal waterways within the Coeur d'Alene Reservation. Writing in May 1873, General Land Office Deputy Surveyor David Thompson urged an enlargement of the 1867 reservation, noting that it excluded tribal members' principal fisheries on Lake Coeur d'Alene and the St. Joe and Coeur d'Alene Rivers. Thompson wrote, "Should the fisheries be excluded there will in my opinion be trouble with these Indians."[13] The Indian Office's Catholic commissioner, Charles Ewing, agreed. He told the secretary of the interior in June 1873 that, upon learning of the 1867 reservation, the Coeur d'Alenes "at once said it is not large enough." Ewing further asserted that tribal leaders wanted their lands "secured to them" in a "permanent" manner that would prevent non-Indians from seizing "the choice portions of it." To accomplish this, the Coeur d'Alenes requested "to see a high officer, *direct* from their Great Father," whose authority would be "respected at Washington" and whose agreements with the Tribe would become "law, permanent law, unchangeable law."[14]

These reports and petitions from both tribal leaders and government officials ultimately led to the appointment of a commission to negotiate with the Coeur d'Alene Indians for an agreement under which a permanent reservation would be created and the Tribe's non-reserved aboriginal territory would be conveyed to the United States. In July 1873, the so-called Shanks Commission negotiated such an agreement, providing for the expansion of the 1867 reservation to encompass nearly all of Lake Coeur d'Alene, as well as many of the Tribe's principal fisheries and village sites along the Coeur d'Alene, St. Joe, and Spokane Rivers. Further reflecting the importance of these

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Mullan, *Miners and Travelers' Guide to Oregon, Washington, Idaho, Montana, Wyoming, and Colorado, Via the Missouri and Columbia Rivers* (New York: Arno Press, 1973. Originally published in 1865), 23, 33, USA-CDA00002219.

[11] Executive Order of June 14, 1867, in Charles J. Kappler, ed., *Indian Affairs: Laws and Treaties*, vol. 1 (Washington, D.C.: GPO, 1904), 835–837, USA-CDA00001713.

[12] Petition of the "Chiefs and People of the Coeurs D'Alene," November 18, 1872, C-417, Roll 912, M234, frames 868–872, USA-CDA00021418.

[13] D. P. Thompson, Deputy Surveyor, to L. F. Cartee, Surveyor General, May 6, 1873, L-111, Roll 341, M234, frames 290–294, USA-CDA00021443.

[14] Charles Ewing to Columbus Delano, Secretary of the Interior, June 5, 1873, E-25, Roll 912, M234, frames 926–932, USA-CDA00021467. Emphasis in original.

waterways, the agreement provided that "the waters running into said reservation shall not be turned from their natural channel where they enter said reservation." Nez Perce Agent John Monteith also noted that the inclusion of "the upper falls [of the Spokane River]" within the reservation would allow Indian officials to establish mills at "much less expense than building a steam mill."[15] Another member of the Shanks Commission reported that including these fisheries and mill sites were of vital significance to the Tribe, stating that "the Indians *demanded* an extension of their reservation so as to include the Catholic Mission and fishing and mill privileges on the Spokane River."[16]

Although Congress failed to ratify the July 1873 agreement, President Ulysses Grant confirmed the expanded reservation boundaries outlined therein by issuing an executive order on November 8, 1873. Despite more than doubling the size of the Coeur d'Alene Reservation from roughly 250,000 acres to nearly 600,000 acres, the 1873 order still set aside less than a quarter of the Coeur d'Alene Indians' traditional territory, which encompassed lands mainly in northern Idaho and northeastern Washington that stretched from the Palouse country in the south to the southern end of Lake Pend Oreille in the north. Moreover, since Congress did not ratify the July 1873 agreement, the Tribe's aboriginal title to these traditionally occupied lands remained intact.[17]

Because of this—and due to the increasing impacts of non-Indian encroachment on Coeur d'Alene lands during the 1880s—federal officials directed a second commission to negotiate with the Coeur d'Alene Tribe in 1887. Like the 1873 negotiations, this second commission (known as the Northwest Indian Commission) was appointed partly in response to a request from tribal leaders to obtain congressional approval of their 1873 reservation and to secure compensation for lands lying outside those boundaries. Writing in March 1885, Coeur d'Alene leaders urged that a commission visit them and negotiate with them for the following purposes:

> [T]o provide for our present and future wants, and to make with us a proper treaty of peace and friendship, and enter into such proper business negotiations under and by which your petitioners may be properly and fully compensated for such portion of their lands not now reserved to them; [and] that their present reserve may be confirmed to them . . . [18]

The subsequent negotiations resulted in an agreement signed on March 26, 1887, that provided for the 1873 reservation to be "held forever as Indian land and as homes for the Coeur d'Alene

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[15] Agreement Made and Entered Into on This 28th Day of July, A.D., 1873 at Latah (or Hangman's) Creek [Coeur d'Alene Agreement], M-407, Roll 341, M234, frames 553–562, USA-CDA00021487; Jno. B. Monteith, Indian Agent, Nez Perce Agency, to E. P. Smith, Commissioner of Indian Affairs, August 6, 1873, M-407, Roll 341, M234, frames 547–552, USA-CDA00021501.

[16] "Governor Bennett's Letter," September 18, 1873, in *Idaho Signal*, October 4, 1873, USA-CDA00006617. Emphasis in original.

[17] Executive Order, November 8, 1873, in Kappler, *Indian Affairs: Laws and Treaties*, vol. 1, 837, USA-CDA00001713. For the estimated size of the 1873 reservation and the comparison to the size of the Tribe's aboriginal territory, see Gary B. Palmer, "Indian Pioneers: The Settlement of Ni'lukhwalqw (Upper Hangman Creek, Idaho) by the Schitsu'umsh (Coeur d'Alene Indians)," *Oregon Historical Quarterly* 102, no. 1 (Spring 2001): 27–28, USA-CDA00021693.

[18] Seltice, et al., to the President, et al., March 23, 1885, in Senate, *Letter from the Acting Secretary*, 49th Congress, 1st session, April 9, 1886, S. Ex. Doc. 122, serial 2340, 9–10, USA-CDA00003919.

Indians" and any other tribes that relocated to the Coeur d'Alene Reservation. The agreement further stipulated that reservation lands could not be "sold, occupied, open to white settlement, or otherwise disposed of without the consent of the Indians residing on said reservation." Coeur d'Alene leaders also agreed to accept $150,000 in consideration for "ced[ing]" and "relinquish[ing]" their "right, title, and claim" to any aboriginal territory in Washington, Idaho, and Montana lying outside the boundaries of their 1873 reservation. Although it took four years after signing the 1887 agreement, Congress ultimately "accepted, ratified, and confirmed" the agreement's terms on March 3, 1891.[19]

While many tribal members had relocated from their traditional village sites to the DeSmet area during the decade leading up to the negotiation of the 1887 agreement, historical evidence indicates that the Coeur d'Alene Indians continued to engage in traditional subsistence activities along the lakes, rivers, and other water bodies that remained the center of their aboriginal territory. As historian Laura Woodworth-Ney found, "some families continued to reside in the lake and river regions well into the twentieth century," and Coeur d'Alene waterways "continued to form the soul of the tribal landscape."[20] Furthermore, evidence from Interior Department hearings held in 1910 revealed ongoing tribal uses of Lake Coeur d'Alene, Chatcolet Lake, Benewah Lake, and the St. Joe and Coeur d'Alene Rivers for fishing, hunting, camping, and transportation through the first decade of the twentieth century.[21]

Taken together, the historical evidence leading up to the establishment of the Coeur d'Alene Reservation in 1873 indicates that its creation resulted from an effort on the part of both tribal leaders and government officials to secure a permanent homeland for the Tribe. At the time of the reservation's creation, tribal members continued to rely on fishing, hunting, and gathering, while also incorporating Euroamerican agriculture and Catholic religious observances into their seasonal migrations and traditional subsistence patterns. Recognizing this, federal officials agreed with Coeur d'Alene leaders who petitioned them about the need to expand the 1867 reservation to include essential tribal waterways and to enable the continuance of the Tribe's diverse subsistence strategies and lifeways. In so doing, United States officials reflected the government's intent to create a reservation that would meet the broad homeland needs of the Coeur d'Alene Tribe.

The report that follows will expand upon and provide additional evidence for the opinions and analysis outlined briefly above. The first two body sections of the report will discuss both the traditional uses of water by the Coeur d'Alene Tribe and the evidence of the Tribe's continued reliance on these resources through the 1850s and 1860s. Next, the report will describe and analyze

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[19] Act of March 3, 1891, 26 Stat. 989 at 1026–1029, USA-CDA00021598.

[20] Laura Woodworth-Ney, *Mapping Identity: The Creation of the Coeur d'Alene Indian Reservation, 1805–1902* (Boulder: University Press of Colorado, 2004), 90, USA-CDA00021719.

[21] See, for example, Testimony of A. J. L. Brewald, January 4, 1910, vol. 2, Entry 1028: Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909–10, Record Group 49: Records of the Bureau of Land Management [RG 49], National Archives and Records Administration, Washington, D.C. [NARA I], pp. 814, 819–821, USA-CDA00008049.

the events that led to the establishment and expansion of the Coeur d'Alene Indian Reservation between 1867 and 1873. Finally, the report will conclude with a section discussing the negotiation of 1887 and 1889 agreements with tribal leaders and Congress's confirmation of the 1873 reservation through the enactment of an 1891 law.

2. Traditional Uses of Water by the Coeur d'Alene Tribe Prior to the 1850s

Water was an essential component of life and culture for the Coeur d'Alene Indians both before and after contact with Europeans and Americans. The center of the Tribe's aboriginal territory was Lake Coeur d'Alene, where they established dozens of permanent winter villages along its shores and tributary waterways. Tribal members utilized lakes, rivers, and aquatic resources for subsistence, lodging, transportation, and tools, continuing to rely extensively on these resources even after the adoption of horses and buffalo hunting during the eighteenth century. Water also played an important role in Coeur d'Alene culture, language, and mythology. This chapter addresses the myriad uses of water by the Coeur d'Alene people within their aboriginal territory, as well as water's significance in their culture, prior to the 1850s treaty era in the Pacific Northwest.

Firsthand written sources documenting the Coeur d'Alene people and their aboriginal territory begin with the 1806 journals of Lewis and Clark. Trappers and traders such as David Thompson, Alexander Henry, and Ross Cox, also recorded their interactions (however brief) with the Tribe. Starting in 1842, a series of Jesuit missionaries came to Coeur d'Alene territory, most notably Pierre-Jean De Smet, Nicholas Point, and Joseph Joset. After initially establishing a mission on the St. Joe River in 1842, the Jesuits moved the Sacred Heart Mission to present-day Cataldo in 1846, where it remained until its relocation to De Smet in 1877. The Jesuits' journals, drawings, and paintings throughout this period provide an important window into traditional Coeur d'Alene life and culture.

In the twentieth century, a number of studies emerged that relied on archaeology and interviews with tribal members. James A. Teit in 1930 published the first comprehensive ethnological study of the Coeur d'Alene people, based on his fieldwork from 1904 to 1909. Folklorist Gladys Reichard produced an analysis of Coeur d'Alene myths and stories in 1927. There followed archaeological and anthropological studies by Stuart Chalfant, Verne Ray, Tom Miller, Sven Liljeblad, and others, which largely built upon and refined Teit's initial work.

More recent treatments of Coeur d'Alene history and culture include the works of linguists, anthropologists, and historians. Notable among them are recent studies by anthropologist Gary Palmer; historians Laura Woodworth-Ney, E. Richard Hart, Jerome Peltier, and Jack Dozier; and ethnographers Rodney Frey, Lillian Ackerman, and Robert McCarl. Collectively, these sources provide the documentary foundation for assessing traditional Coeur d'Alene history and culture prior to the 1850s.

The Ancestral Coeur d'Alene Indians

Before contact with Euroamericans in the early 1800s, the Coeur d'Alene Indians (*Schitsu'umsh*) were, according to ethnologist James A. Teit, a "semisedentary people, and living in a country where wood, bark, and vegetal materials of many kinds abounded." They were highly skilled in "fishing, canoe making, and textile work in weaving of mats, bags, and baskets, probably to a greater degree than any of the neighboring tribes."[22] The Coeur d'Alene language belonged to the Salish family, marking a linguistic connection to other northwestern tribes such as the Flathead (Salish), Kalispel, Pend Oreille, and Spokane, along with a number of tribes in coastal and inland regions of present-day Washington and British Columbia.[23]

The Coeur d'Alene people are thought to have migrated during the prehistoric past from a region currently within British Columbia. According to a 1976 report from the Bureau of Indian Affairs (BIA), the Coeur d'Alene Indians retained certain "coastal characteristics" common to other Salish-speaking tribes, such as "the longhouse and a dependence on fishing."[24] The Coeur d'Alene people themselves had no tradition of ancestral migration: "According to oral history," wrote historian Laura Woodworth-Ney, "the Schitshu'umsh [Coeur d'Alene] have inhabited eastern Washington and northern Idaho 'since time immemorial.'"[25] The archeological record largely matches the historical record in terms of geographic distribution of Salish-speaking tribes. Wrote scholar Sven Liljeblad: "They must have been in the area of their present distribution for a very long time, since archaeological sites show unbroken occupation by the same people."[26]

A defining characteristic of Salish-speaking Indians was the tendency to settle along waterways. According to Liljeblad, "The Salish Indians stuck to the water: most of them are coast peoples, and the interior Salish lived on the rivers and lakes."[27] In keeping with this predilection, permanent Coeur d'Alene villages were clustered around the major waterbodies and waterways of their territory:

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[22] James A. Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report of the Bureau of American Ethnology, 1927–1928,* ed. Franz Boaz (Washington, DC: Government Printing Office, 1930), 151, USA-CDA00003451.

[23] Sven Liljeblad, "Indian Peoples in Idaho," Idaho State College, University of Washington Archives, 1957, 18, USA-CDA00001938; Gregory Mengarini, "Vocabulary of the S'chit-zui," in *Contributions to North American Ethnology,* vol. 1 (Washington, DC: Government Printing Office, 1877), 268–283, USA-CDA00002157.

[24] United States Bureau of Indian Affairs, *Coeur D'Alene Indian Reservation: Human and Natural Resource Supportive Data* (Billings, MT: Planning and Support Group, 1976), 7, USA-CDA00004071.

[25] Woodworth-Ney noted that human habitation in the interior Pacific Northwest may have dated to 13,000 B.C., although not all scholars agree on the timing and mode of migration. Archaeologist Tom Miller considered a late Pleistocene occupation of northern Idaho "improbable," as a portion of the area may have been submerged beneath Lake Spokane and, after its drainage, still too cold for humans. Human habitation may have dated from the end of the last Ice Age, some 12,000 years ago. See Woodworth-Ney, *Mapping Identity,* 9, 176, USA-CDA00021719; Tom Miller, "Archaeological Survey of Kootenai County, Northern Idaho," *Tebiwa: The Journal of the Idaho State College Museum* 2, no. 2 (Autumn 1959): 47, USA-CDA00002178.

[26] Sven Liljeblad, "Indian Peoples in Idaho," Idaho State College, University of Washington Archives, 1957, 18–19, USA-CDA00001938.

[27] Liljeblad, "Indian Peoples in Idaho," 18, USA-CDA00001938.

principally, Lake Coeur d'Alene and the Spokane, St. Maries, St. Joe, and Coeur d'Alene Rivers.[28] Within this geographic range, the Tribe was further subdivided into several divisions and bands, each headquartered in a well-defined locality on or near a lake or waterway.[29] Anthropologist Verne F. Ray described the pre-contact Coeur d'Alene people as "an ethnic unit" grouped into several geographic divisions, each centered on villages situated along the region's lakes and rivers.[30] The ancestral Coeur d'Alene called themselves *Schitsu'umsh*, which, according to Woodworth-Ney, translated to "the ones that were found here."[31]

Aboriginal Territory

The aboriginal territory of the Coeur d'Alene Indians once was a vast inland sea. It was then covered by Ice Age glaciers, which pushed south to Lake Coeur d'Alene. As the sheets of ice receded, the ancestral Coeur d'Alene people encountered a landscape of plateaus, forests, rivers, lakes, and mountains. It was, in the words of historian D. E. Livingston-Little, "a land of pleasant summers and moderate winters, with much snow to feed the streams, but without severe cold." The inhabitants of this region, he wrote, tended to reside in the river valleys and lowlands, where the weather was moderate.[32]

Lewis and Clark did not actually visit Coeur d'Alene territory during their initial expedition to the Pacific Ocean but, on their return trip in 1806, they met several individuals from the Tribe. That meeting provided the first historical description of the area and the Tribe. Lewis wrote:

> . . . we met with three men of a nation called the Skeets-so-mish who reside at the falls of a large river dis[c]harging itself into the Columbia on it's [*sic*] East side to the North of the entrance of Clark's river. [T]his river they informed us headed in a large lake in the mountains and that the falls below which they resided was at no great distance from the lake.[33]

Lewis's description, and the accompanying sketches by William Clark based upon them, provided the earliest documentary basis for a Euroamerican understanding of the Coeur d'Alene people and

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[28] Jack Dozier, "History of the Coeur D'Alene Indians to 1900," (M.A. thesis, University of Idaho, 1961), 7, USA-CDA00001416.

[29] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 150, USA-CDA00003451.

[30] Verne F. Ray, *Cultural Relations in the Plateau of Northwestern America* (Los Angeles: The Southwest Museum, 1939), 12, USA-CDA00002921.

[31] Woodworth-Ney, *Mapping Identity*, 174, USA-CDA00021719. The name "Coeur d'Alene," probably assigned by French-speaking trappers and traders, is loosely translated into English as "Pointed Heart" or "Awl Heart." It is said to refer to the Tribe's brusque manner with early traders, but its actual meaning and origin is uncertain. Albert W. Thompson, "Coeur d'Alene: The Names Applied to Tribe and Lake," *Idaho Yesterdays* 21, no. 4 (Winter 1978): 11–15, USA-CDA00003647.

[32] D. E. Livingston-Little, "An Economic History of North Idaho, 1800–1900—Part 1," *Journal of the West* 2, no. 2 (April 1963): 123–124, USA-CDA00001995.

[33] Reuben Gold Thwaites, ed., *Original Journals of the Lewis and Clark Expedition, 1804–1806*, vol. 4, pt. 2 (New York: Dodd, Mead & Company, 1905), 363, USA-CDA00003660. For a more recent version of this part of the Lewis and Clark journals, see Gary E. Moulton, ed., *The Definitive Journals of Lewis & Clark*, vol. 7 (Lincoln: University of Nebraska Press, 1991), 215–220, USA-CDA00021620.

their territory. According to Woodworth-Ney, the Lewis and Clark journals and drawings "mapped an identity for the Schitsu'umsh that was separate from other peoples and was intrinsically tied to the waters of the region."[34]

The Tribe used and occupied more than 4 million acres in what is now Idaho, Washington, and Montana.[35] The area covered most of the present Idaho Panhandle and extended into Washington, along the Spokane River from its headwaters at Lake Coeur d'Alene to a point just above Spokane Falls.[36] Teit provided the following description:

> They [the Coeur d'Alene Indians] held all the headwaters of Spokane River from a little above Spokane Falls to the sources, including Coeur d'Alene Lake and all its tributaries. To the southeast their territory extended across the head of the Clearwater, a tributary of the Snake River. Their eastern boundaries were the Coeur d'Alene and Bitter Root Mountains. Generally speaking, their country is mountainous and more or less heavily forested, with more rain and snowfall than the territories of the surrounding tribes. The western part, around De Smet, Hangman's Creek, Tekoa, Farmington, and toward Spokane Falls, is drier and comparatively flat, open, and well grassed. In the central part are many navigable waterways.[37]

To the north were the Kalispel Indians; to the south and southwest were the Nez Perce and Palouse tribes. The Spokane Indians occupied the prairies to the west, while the Bitterroot Mountains and Flathead territory flanked the eastern horizon.[38] These intertribal boundaries were not rigid, and the Coeur d'Alene sometimes used areas in common with neighboring groups.[39]

Coeur d'Alene aboriginal territory was, in the words of anthropologist Gary B. Palmer, "an environment of exceptional diversity."[40] It was a land of prairies and foothills, mountains and valleys, at the heart of which were the region's lakes, rivers, and streams. "In all," wrote anthropologist Rodney Frey, "it was a landscape consisting of more than 4 million acres of fir-, ponderosa-, and cedar-forested mountains, freshwater rivers, lakes and marshlands, white pine stands, and perennial bunchgrass and fescue wheat-grass-covered rolling hills and prairies."[41]

Within this expansive terrain, the Tribe's principal homeland centered on Lake Coeur d'Alene—the "very heart" of Coeur d'Alene settlement, according to Frey—together with its tributaries;

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[34] Woodworth-Ney, *Mapping Identity*, 15, USA-CDA00021719.

[35] BIA, *Coeur D'Alene Indian Reservation*, 7, USA-CDA00004071; Woodworth-Ney, *Mapping Identity*, 8, USA-CDA00021719.

[36] Liljeblad, "Indian Peoples in Idaho," 19, USA-CDA00001938; Leslie Spier, "Tribal Distribution in Washington," in *General Series Anthropology*, no. 3 (Menasha, WI: George Banta Publishing Company, 1936), 7, USA-CDA00003287.

[37] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 37, USA-CDA00003451.

[38] Stuart A. Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," in *Interior Salish and Eastern Washington Indians I* (New York: Garland Publishing, Inc., 1974), 123, USA-CDA00001045.

[39] Rodney Frey, *Landscape Traveled by Coyote and Crane: The World of the Schitsu'umish* (Seattle: University of Washington Press, 2001), 6–8, USA-CDA00021676.

[40] Gary Palmer, "Coeur d'Alene," in *Handbook of North American Indians*, vol. 12, vol. ed. Deward E. Walker, Jr. (Washington, DC: Smithsonian Institution, 1998), 313, USA-CDA00021626.

[41] Frey, *Landscape Traveled by Coyote and Crane*, 7, USA-CDA00021676.

Hayden and Liberty Lakes; a portion of the Spokane River; and the drainage basins of the Coeur d'Alene and St. Joe Rivers.[42] These last two waterways, in conjunction with the St. Maries River (the main tributary of the St. Joe River) are the principal tributaries that empty into Lake Coeur d'Alene, together with hundreds of smaller creeks and streams. The Spokane River drains water away from the lake and ultimately discharges to the Columbia River.[43]

Non-Indian explorers and missionaries often noted the "ruggedly mountainous character" of Coeur d'Alene country.[44] Father Joseph Joset in 1845 described it as "the end of the world, in the midst of a labyrinth of mountains, forests, lakes, and rivers,"[45] while Father Pierre-Jean De Smet in 1859 commented that:

> Taking Coeur-d'Alene Lake as a central point, their country may extend fifty miles to every point of the compass. The lake is a beautiful sheet of clear water, embedded amid lofty and high mountain bluffs, and shaded with a variety of pines, firs, and cedars; in its whole circumference to my knowledge, there is no arable land. . . . Small lakes, from one to three miles in circumstances [circumference], are numerous in the two valleys [St. Joseph and Coeur d'Alene River valleys]. Camash, and other nutritious roots and berries abound in them. . . . All the rivers and rivulets in the Couer-d'Alene country abound wonderfully in mountain trout and other fish. The forests are well stocked with deer, with black and brown bears, and with a variety of fur-bearing animals. The long winters and deep snows must retard the settlement of this country.[46]

The Coeur d'Alene people typically followed a cycle of annual movements "within a well-established territory," according to ethnologist Lillian Ackerman, in accordance with their subsistence and cultural patterns.[47] They regularly traveled long distances. "During a single year's seasonal round," wrote Frey, "a family might have traversed up to 300 miles through the Schitsu'umsh landscape," relying on both "sturgeon-nosed, cedar-bark canoes on the lakes and rivers" and on "well-walked trails through the hills and over the mountains."[48] Woodworth-Ney, meanwhile, described the ancestral Coeur d'Alene Indians as "[a]n intensely territorial people" who "returned to the same villages year after year." Their permanent winter villages, established on lakes or waterways, were occupied periodically throughout the year, even during non-winter months.[49]

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[42] Frey, *Landscape Traveled by Coyote and Crane,* 7–8, USA-CDA00021676.

[43] BIA, *Coeur D'Alene Indian Reservation,* 34–37, USA-CDA00004071.

[44] William N. Bischoff, "The Coeur D'Alene Country, 1805–1892," in *Interior Salish and Eastern Washington Indians I* (New York: Garland Publishing Inc., 1974), 2, USA-CDA00000824.

[45] Joseph Joset to Father Fouillot, in Pierre-Jean De Smet, "Missions of the Rocky Mountains," in vol. 7 of *Annals of the Propagation of the Faith* (1846), 369, USA-CDA00001318.

[46] Pierre-Jean De Smet, *New Indian Sketches,* ed. Edward J. Kowrach (Fairfield, WA: Ye Galleon Press, 1985), 130, USA-CDA00001327. For another copy of this letter, see P. J. De Smet, S.J., Chaplain, & c., United States Army, to Captain A. Pleasonton, Acting Assistant Adjutant General, May 28, 1859, in House, *Affairs in Oregon,* 36th Congress, 1st session, April 12, 1860, H. Ex. Doc. 65, Serial 1051, 147–149, USA-CDA00021277.

[47] Lillian A. Ackerman, "The Effect of Missionary Ideals on Family Structure and Women's Roles in Plateau Indian Culture," *Idaho Yesterdays* 31, nos. 1–2 (Spring/Summer 1987): 65, USA-CDA00000661.

[48] Frey, *Landscape Traveled by Coyote and Crane,* 42, USA-CDA00021676.

[49] Woodworth-Ney, *Mapping Identity,* 11–12, USA-CDA00021719.

Village Site Locations

Ethnologist James A. Teit identified at least three "divisions" of the Coeur d'Alene Tribe, based on village groupings: (1) around Lake Coeur d'Alene and the Spokane River; (2) along the Coeur d'Alene River; and (3) along the St. Joe River.[50] Each division was, according to Teit, "defined, and separated more or less definitely from other bands of the tribe by natural boundaries, such as mountain ranges."[51] He noted that the Coeur d'Alene people regarded their whole territory as being held in common by the Tribe, including lakes and rivers. Village sites, however, were "seldom used by outsiders, for they [the Coeur d'Alene] depended on this territory for the gathering of roots and berries, and for everyday fishing and hunting."[52]

Teit identified at least 33 villages, or "permanent wintering places," occupied by the Coeur d'Alene people. The locations evidently predated regular buffalo hunting by the Tribe, or at least preceded the smallpox epidemics of 1830s and 1850s.[53] Subsequent investigations have suggested as many as 40 permanent or semi-permanent village sites.[54] These settlements were always situated near lakes and rivers.[55] Wrote archaeologist Tom Miller: "All permanent villages were evidently on waterways—rivers and lakes." He found no evidence of villages being located *away* from lakes and rivers, although at least two sites may have been situated "at springs on bluffs overlooking waterways."[56] (See Figure 1.)

According to Woodworth-Ney, the Tribe had villages on Lake Coeur d'Alene; the St. Joe, Coeur d'Alene, St. Maries, and Spokane Rivers; and Hangman's (or Latah) Creek.[57] Palmer further indicated that tribal villages included sites near both Hayden Lake and Liberty Lake.[58] In 1937, tribal member Basil Peone recollected that "there were groups or clans of Coeur d'Alene Indians all along the shores of Lake Coeur d'Alene and up and down the St. Joe, Coeur d'Alene rivers and other

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[50] Teit also allowed for the possibility of a fourth division, separate from the Lake Coeur d'Alene division, on the Spokane River. See Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 38–39, USA-CDA00003451.

[51] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 150, USA-CDA00003451.

[52] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 162, USA-CDA00003451.

[53] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 38–39, USA-CDA00003451; John R. Swanton, *The Indian Tribes of North America,* Bureau of American Ethnology Bulletin 145 (Washington, DC: Smithsonian Institution Press, 1952), 411, USA-CDA00003447.

[54] For example, see Palmer, "Coeur d'Alene," in *Handbook of North American Indians,* 313–314, USA-CDA00021626; Verne F. Ray, "Native Villages and Groupings of the Columbia Basin," *Pacific Northwest Quarterly* 27, no. 2 (April 1936), 130–133, USA-CDA00002890; Jerome Peltier, *A Brief History of the Coeur D'Alene Indians, 1805–1909* (Fairfield, WA: Ye Galleon Press, 1981), 17–18, USA-CDA00002627; E. Richard Hart, "The Continuing Saga of Indian Land Claims: The Coeur D'Alene Tribe's Claim to Lake Coeur D'Alene," *American Indian Culture and Research Journal* 24, vol. 1 (2000): 183, USA-CDA00021642.

[55] Liljeblad, "Indian Peoples in Idaho," 18, USA-CDA00001938.

[56] Miller, "Archaeological Survey of Kootenai County, Northern Idaho," 40–41, USA-CDA00002178.

[57] Woodworth-Ney, *Mapping Identity,* 9, USA-CDA00021719.

[58] Palmer, "Coeur d'Alene," in *Handbook of North American Indians,* 314, USA-CDA00021626.

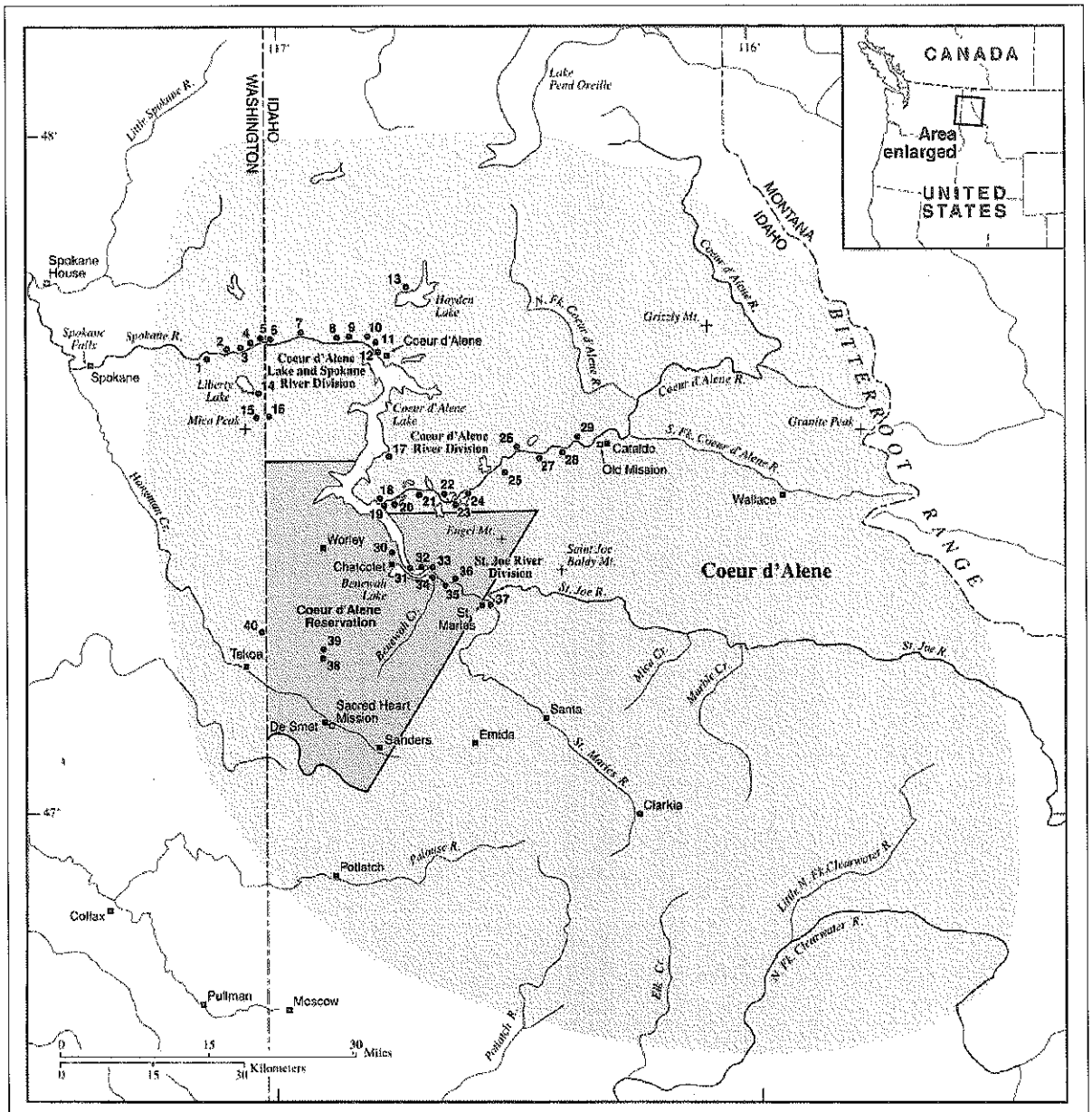

Fig. 1. Coeur d'Alene territory and drainage during the 19th century, with modern towns and reservation.

Spokane River–Coeur d'Alene Lake Division: 1, *čutamwáyi?lpəm* 'flat by dogwoods'; 2, neslíxum; 3, nesxʷáxʷe; 4, ntsetsákʷolsákʷo (?); 5, ne?awáshalqs; 6, *həncáqilpenč* 'fir on the mountainside'; 7, *qenílan* 'throat, gorge'; 8, *sčétkʷe?* 'flat water'; 9, *hənšáwapt* 'upstream'; 10, *tpu?nílpəm* 'bubbling plant'; 11, smələlína; 12, *hənčəmqínkʷe?* 'surface at the head of the water' (Coeur d'Alene, Idaho); 13, *hənkúqən* 'Hayden Lake, Idaho'; 14, *mílš* 'cottonwood'; 15, *čnákʷa?qən* 'one on the head'; 16, family camp, name unknown; 17, chelécholichəman.

Coeur d'Alene River Division: 18, chtáchalxʷ; 19, *alkʷári?t* 'source of gold'; 20, ne?atsqáxstəm; 21, dé?holpʷ 'a large clump of cottonwoods' (?); 22, nest'áqʷast; 23, qoqolécelps 'black pines'; 24, *smáqʷqən* 'things lying on the mount'; 25, camp, name unknown; 26, *hənsélut* 'whirlpool'; 27, sənshéləments; 28, nalstqitxʷən; 29, *sq̓ʷlá* (Old Sacred Heart Mission).

Saint Joe River Division: 30, *čəmtíwəs* 'waist, narrow peninsula between lake and river'; 31, stíqʷtakəshən (?); 32, chetishtashəshən; 33, *shúčtewəs* (Mission Point); 34, schishátat; 35, schlslidshiketən; 36, *čat?núsásalqs* 'little dwelling on the spur'; 37, *hənčémcən* 'confluence, inner mouth' (St. Maries, Idaho); 38, táx?olks (?). Summer camps not associated with divisions: 39, *ni?ləxʷálqʷ* 'hole in the woods'; 40, nlpórsəntsən.

SOURCES: Palmer, Nicodemus, and Felsman (1987); Ray (1936:130–133); Teit (1930:38–39). Names given only by Ray or Teit, or both, are in a slightly normalized transcription in roman.

Figure 1. Coeur d'Alene Aboriginal Territory and Traditional Village Sites.
Source: Palmer, "Coeur d'Alene," in *Handbook of North American Indians*, vol. 12, 313, USA-CDA00021626.

streams emptying into the lake."[59] From these villages, the Coeur d'Alene people engaged in an annual subsistence cycle that relied on fishing, hunting, and gathering throughout the year. Villages were thus situated to offer a combination of advantages. Anthropologist Stuart Chalfant wrote:

> They [the Coeur d'Alene] lived in several scattered groups, each located at a place which afforded not only good hunting and fishing, and an adequate supply of firewood, but which was also within reasonable distance from their summer root-digging grounds. They had to live far enough up in the hills for good hunting, yet along the rivers and close enough to the lake for fishing and transportation by canoe to their summer camps. Their village locations were determined by their subsistence patterns, and their subsistence patterns were in turn determined by their environment, its ecology, and the seasons.[60]

Portraits of daily village life among the Coeur d'Alene Indians were captured by Nicholas Point, a Jesuit missionary who lived among the Tribe in the 1840s. His drawings and paintings depicted an existence closely connected to rivers, lakes, and aquatic resources. Historian E. Richard Hart noted: "Virtually every painting that Point did of Coeur d'Alene territory showed water and canoes. Camps and villages are next to the water, which is richly inhabited with water fowl. Fish are being smoked at the villages, while people are hunting and fishing nearby on the water."[61] (See Figures 2–3.) Point also offered thorough written depictions of Coeur d'Alene fishing and hunting activities that likewise focused on the importance of waterways. For example, after accompanying tribal members on "hunting and fishing" expeditions in the winter of 1842–1843, Point wrote:

> The Coeur d'Alenes also have their great hunt, but their country, dotted with lakes and interlaced with rivers, abounds in fish no less than in game animals, so they also have their great fishing expeditions. Fishing, like hunting, is done almost the year round. But the great fishing expedition takes place in fall, and the great hunting expedition occurs in the winter.[62]

Point also marveled at the abundance of game, fish, and birds available near the Coeur d'Alene village sites:

> Is there an abundance of game in the Coeur d'Alene country? Perhaps nowhere does so small an area contain such a variety. Next to the roe deer, these are the most common: the deer, the elk, the mountain lion, the carcajou, the white sheep, the bighorn, the goat, the wolf, the fox, the wildcat, the polecat, the hare, the otter, the weasel, the badger, the mink, the marten, the fisher, the beaver, the muskrat, a large variety of mouse-colored rats, squirrels, field mice, not to mention four or five varieties of bear. Of the birds, there are the calumet bird, (which has the same importance as the eagle), the swan, the crane, the pelican, the bittern, the bustard, the snipe, the thrush, the duck, the teal, the magpie, the crow, the swallow, the green woodpecker, the hawk, the turtledove, the fishing bird, many varieties of aquatic birds and others unknown in Europe.

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[59] Peone added: "Also on the Spokane River from the present site of Coeur d'Alene City down to Spokane Bridge, eighteen miles east of the city of Spokane." Basil Peone, "An Indian Herodotus, Coeur d'Alene Clans," in Su Harms, ed., *The Coeur D'Alene Teepee, vols. I–III, 1937–40* (Plummer, ID: Serento Press, 1980), 35, USA-CDA00001538.

[60] Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," 81–83, USA-CDA00001045.

[61] E. Richard Hart, "A History of the Coeur d'Alene Tribe's Claim to Lake Coeur d'Alene," vol. 1, submitted to the U.S. Department of Justice, *United States v. Idaho,* July 15, 1996, 60, USA-CDA00000001; Point, *Wilderness Kingdom,* 63, 72–83, 92–93, USA-CDA00002715; Jacqueline Peterson, *Sacred Encounters: Father De Smet and the Indians of the Rocky Mountain West* (Norman: University of Oklahoma Press, 1993), 56, USA-CDA00002700.

[62] Point, *Wilderness Kingdom,* 174–175, USA-CDA00002715.

> Fish are abundant in lakes, rivers, and small streams. . . . What a vast collection of animals![63]

Point and other missionaries undertook to teach agriculture to the Coeur d'Alene Indians but, according to historian Thomas R. Cox, "their permanent villages were located along waterways rather than on those lands best suited for agriculture."[64] Moreover, as Woodworth-Ney indicated, the Jesuit missionaries initially "relied on traditional subsistence patterns for their own survival" and thus "did not force immediate changes" in the Tribe's traditional subsistence cycles nor in its village locations. She noted that Point "possessed so few provisions" that he "subsisted in much the same manner as the Coeur d'Alenes," while Father Joset "used Coeur d'Alene methods to provide for his subsistence." Because of this, "During the early years of the mission the priests encouraged fishing and hunting and allowed for the observance of traditional hunting rituals."[65]

Most Coeur d'Alene villages remained in use until at least the 1870s, with some retaining "a permanent population as late as 1900."[66] As Palmer found, several Coeur d'Alene families continued to live at their traditional villages on lakes and rivers even after the Jesuits moved the Sacred Heart Mission from Cataldo to DeSmet in 1877. For example, one of Palmer's informants—who was born in 1907—reported that his family continued to live "on Benewah Lake" when he was "very young." Remaining "dependent upon the old traditions of hunting and gathering," this family subsisted "mostly on fish and birds, deer and ducks," as well as harvesting water potatoes "by the gunny sack," before being "forced to leave when the state took over their land and turned it into a park."[67]

In assessing the Tribe's traditional village sites, it is worthy of note that some ethnographers have argued that the village arrangements that fit the Tribe's pre-horse, semi-sedentary lifestyle gradually lessened with their adoption of horses and buffalo hunting.[68] Despite the impact of these forces on the "landscape and society" of the Coeur d'Alenes, however, anthropologist Rodney Frey has noted the continued importance of traditional village sites following the advent of the horse.[69] Likewise, Woodworth-Ney argued that buffalo hunting merely "complemented traditional subsistence" and thus did not replace the Tribe's reliance on fishing, hunting, and gathering near their water-based village sites.[70] Moreover, even by 1845, Father Joset indicated that many tribal

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[63] Point, *Wilderness Kingdom*, 180–181, USA-CDA00002715.

[64] Thomas R. Cox, "Tribal Leadership in Transition: Chief Peter Moctelme of the Coeur D'Alenes," *Idaho Yesterdays* 23, no. 1 (Spring 1979): 4–6, USA-CDA00001223.

[65] Woodworth-Ney, *Mapping Identity*, 34, USA-CDA00021719. See also Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 37, USA-CDA00001740.

[66] Woodworth-Ney, *Mapping Identity*, 11–12, USA-CDA00021719.

[67] Gary B. Palmer, "The Farm of Peter Vincent (Pierre Basa)," Sacred Heart Mission Archives, n.d., 1–2, USA-CDA00002280.

[68] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 152, USA-CDA00003451.

[69] Frey, *Landscape Traveled by Coyote and Crane*, 50–51, USA-CDA00021676.

[70] Woodworth-Ney, *Mapping Identity*, 14, USA-CDA00021719.

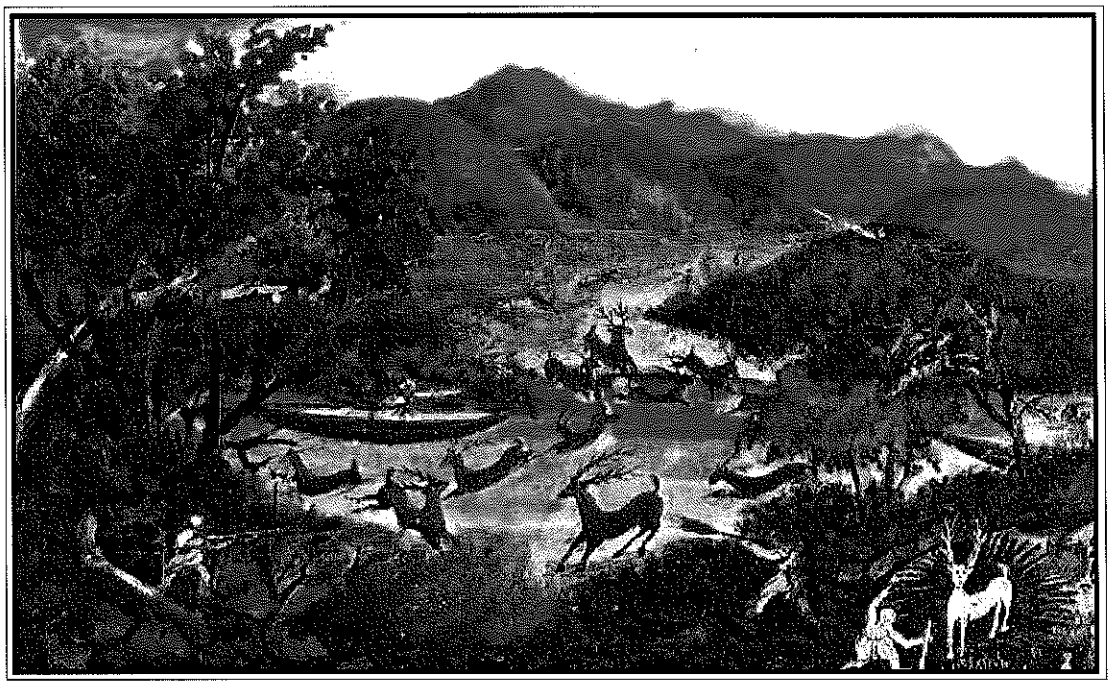

Figure 2. Father Point's Watercolor Depicting Deer Hunting at a River Crossing and an Indian Canoe.
Source: Point, *Wilderness Kingdom,* 80.

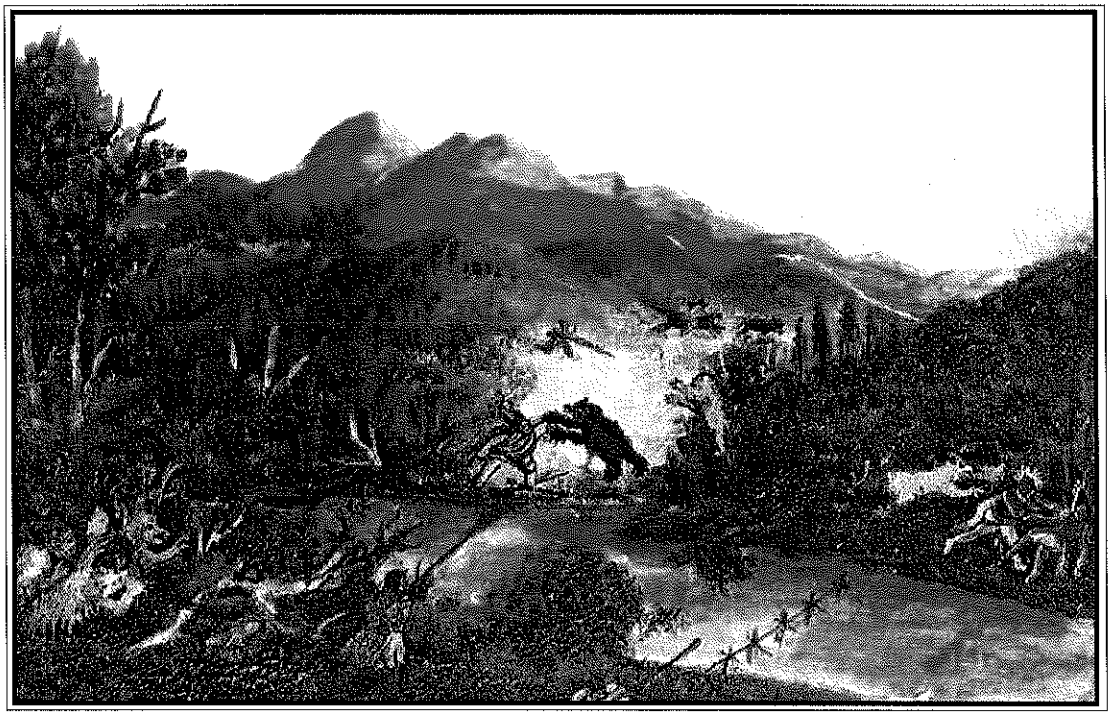

Figure 3. Father Point's Watercolor Depicting a Fishing Weir and Bear Hunting at a River Crossing.
Source: Point, *Wilderness Kingdom,* 80.

members continued to "seek their food" within "the narrow circle of their valleys: their resources are the little chase, that is, the hunting of the roebuck, fishing, roots and moss."[71]

Fishing

Fishing was a vital component of traditional Coeur d'Alene life. "A village site," Sven Liljeblad wrote, "was always in close proximity to a good fishing place which, together with the surrounding land, was considered property of the village."[72] In 1859, Jesuit missionary Pierre-Jean De Smet noted fish in abundance: "All the rivers and rivulets in the Coeur-d'Alene country abound wonderfully in mountain trout and other fish."[73]

Meanwhile, Nicholas Point reported in the early 1840s that the Coeur d'Alene Indians fished virtually year-round, but "the great fishing expedition" took place annually in the fall. He described one such expedition on the banks of the Spokane River, "at the place where Lake Coeur d'Alene teems with a prodigious number of fish. . . . The catch is usually so abundant that canoes are filled and emptied within a space of a few hours."[74] The Coeur d'Alene people feasted on runs of west slope cutthroat trout, whitefish, steelhead trout, and Chinook salmon.[75] Anthropologist Deward E. Walker, Jr. noted that the Tribe also ate "squawfish," and possibly mussels and snails as well.[76]

Salmon was one component of the Coeur d'Alene diet, but the Tribe did not depend on it as extensively as other Plateau tribes, such as the Nez Perce.[77] According to Rodney Frey, there were no anadromous fish in either Lake Coeur d'Alene or Hayden Lake, although "a limited number of salmon" ascended Hangman (Latah) Creek, where some Coeur d'Alene families fished with weirs and spears.[78] Historian Jerome Peltier wrote: "The lower reaches of that stream [Latah Creek] and some of its affluents were on ancestral Coeur d'Alene lands and those fishing sites were used almost exclusively by them."[79] Teit, too, noted a number of salmon fishing sites, including the headwaters

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[71] Joseph Joset to Father Fouillot, in Pierre-Jean De Smet, "Missions of the Rocky Mountains," in vol. 7 of *Annals of the Propagation of the Faith* (1846), 372, USA-CDA00001318.

[72] Liljeblad, "Indian Peoples in Idaho," 26, USA-CDA00001938.

[73] De Smet, *New Indian Sketches*, 130, USA-CDA00001327.

[74] Point, *Wilderness Kingdom,* 174–175, USA-CDA00002715.

[75] Gary B. Palmer identified the Spokane and Clearwater Rivers as sources of steelhead trout and Chinook salmon. Palmer, "Coeur d'Alene," in *Handbook of North American Indians*, 313–316, USA-CDA00021626.

[76] Deward E. Walker, Jr., *American Indians of Idaho,* vol. 1, in *Anthropological Monographs of the University of Idaho, No. 2* (Moscow: University of Idaho, 1973), 49, USA-CDA00004653.

[77] Ackerman, "The Effect of Missionary Ideals on Family Structure and Women's Roles in Plateau Indian Culture," 65, USA-CDA00000661; Mary Eldonna Shaw, "History of the Coeur d'Alene People and Their Lands," in Joseph J. S. Feathers, ed., *These Are the Coeur D'Alene Tribe* (Lewiston, ID: Lewis-Clark State College Press, 1971), 1, USA-CDA00001466.

[78] Frey, *Landscape Traveled by Coyote and Crane*, 22, 29, USA-CDA00021676.

[79] Jerome Peltier, *Manners and Customs of the Coeur D'Alene Indians* (Moscow, ID: Peltier Publications, 1975), 36, USA-CDA00002674.

of the Clearwater River and below Spokane Falls, where tribal members fished and traded for dried salmon with the neighboring Spokane Indians.[80] Coeur d'Alene Chief Joseph Seltice also recounted summer runs on the Little North Fork of Clearwater River: "Salmon could be hooked out of the headwaters of the Little North Fork as fast as a man could throw them."[81]

In contrast to the coastal Salish and many other Plateau tribes, salmon rituals were largely absent from Coeur d'Alene ceremonial practices. According to Teit, "it appears that there were no ceremonies regarding the capture or eating of any kind of fish among the interior Salish tribes," although the Coeur d'Alene did practice first-fruits and harvest ceremonies.[82] Frey wrote:

> Perhaps because of the year-round cycle of trout and whitefish fishing, in conjunction with the general lack of local access to seasonal salmon runs, the Schitsu'umsh did not practice the complex fishing ceremonials so characteristic of most other Plateau peoples."[83]

Nevertheless, salmon still played a role in Coeur d'Alene subsistence and social patterns. For example, fishing with the Spokane Indians presented trade opportunities and interactions. Teit recorded a Coeur d'Alene story suggesting the importance of such relationships. According to tradition, the two tribes were once at war, leaving the salmon fishing grounds empty:

> A Coeur d'Alene chief went to a salmon-fishing place on the Little Spokane. Coeur d'Alene parties had been in the habit of going there annually to fish and play games with the Spokan [*sic*]. . . . He told how he had gone to the fishing place, and how he had sat down and had been overcome with sorrow when he viewed its loneliness, and had thought of the mirth and happiness that used to be there. Now there was no fishing there, and there were no games. All was as if dead. He said he wanted peace, and intended to give his daughter to the Spokan [*sic*] chief to make peace. All the other chiefs agreed with him. . . . She was a good girl, and henceforth lived with the Spokan [*sic*]. Shortly afterwards the chiefs of the two tribes met, and a permanent peace was arranged. This was the last war with the Spokan [*sic*]. Since then the two tribes have always been the best of friends.[84]

The Coeur d'Alene people employed a number of methods to catch not only salmon, but also the other plentiful fishes within their territory. According to Palmer, they were "skillful fishermen who used a great variety of techniques for angling, gaffing, spearing, and netting trout, whitefish, and salmon in both long nets and bag nets."[85] They used a variety of nets to capture fish on lakes and from riverbanks, and at least five types of traps on rivers, streams, and creeks.[86] Historian Jerome Peltier described one such trap near the mouth of the St. Joe River, based on accounts of "[o]ld-time informants" such as 1880s settler Orland A. Scott:

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[80] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 107, USA-CDA00003451; Frey, *Landscape Traveled by Coyote and Crane*, 22, USA-CDA00021676.

[81] Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 19, USA-CDA00001740.

[82] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 184–185, USA-CDA00003451.

[83] Frey, *Landscape Traveled by Coyote and Crane*, 30, USA-CDA00021676.

[84] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 119–121, USA-CDA00003451.

[85] Palmer, "Coeur d'Alene," in *Handbook of North American Indians*, 316, USA-CDA00021626.

[86] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 106–107, USA-CDA00003451.

> Its construction was merely a low dike, approximately 18 inches in height, built of the bottom land upon which it was erected. The priest stuck willow switches into the dike so close together that they formed a natural barrier to fish that swam in either direction in the narrow channel. . . . Natives walking the dike with spears and nets could catch large quantities of white fish and trout in this impound.[87]

Coeur d'Alene fishermen also used wooden or bone hooks on lines of Indian hemp; they carried three-pronged spears and sometimes fished by night using torches and canoes.[88] Favorite fishing stations, according to Chalfant, included the head of the Spokane River (especially for traps), and Lake Coeur d'Alene generally, particularly at Chatcolet. He noted that Coeur d'Alene bands also fished both the St. Joe and St. Maries Rivers, along with the North Fork of the Coeur d'Alene River and the Clearwater River.[89]

Chalfant wrote that "[m]ost villages and bands had their own fishing stations along the rivers near their home sites." He recounted several interviews with tribal members, including Louis Luke: "In the winter, says Luke, they fished along the rivers where they lived (near their homes) and on Coeur d'Alene Lake. Winter fishing was done through the ice."[90] Stanislaus Aripa told Chalfant that while fishing was a year-round activity, "it was most seriously employed in the spring and fall." Additionally, Aripa said that fishing "was usually conducted near the permanent villages, along the rivers or in Coeur d'Alene lake," and "each village did have its fishing stations which it traditionally used year after year."[91]

Some anthropologists have suggested that the adoption of horses and buffalo hunting by the Coeur d'Alene people impacted their reliance on fishing. However, these studies—along with historical documents dating into the early twentieth century—also show unequivocally that fishing endured as an essential subsistence activity among the Coeur d'Alenes long after the Tribe's acquisition of horses. For example, Sven Liljeblad noted that, by the 1800s, families had begun to leave traditional fishing sites for part of the year in favor of buffalo hunting and trade on the plains.[92] According to Chalfant, "The value of fishing lessened, but nonetheless, persisted in its old form at old locations." Moreover, Chalfant concluded that, even after the adoption of horses and

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[87] Peltier, *Manners and Customs of the Coeur D'Alene Indians*, 36–38, USA-CDA00002674.

[88] Frey, *Landscape Traveled by Coyote and Crane*, 29, USA-CDA00021676.

[89] Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," 148, USA-CDA00001045; L. Hudson, S. Boswell, C. D. Carley, W. Choquette, C. Miss, D. H. Chance, and M. A. Stamper, *A Cultural Resource Overview for the Colville and Idaho Panhandle National Forests and the Bureau of Land Management—Spokane and Coeur D'Alene Districts* (Sandpoint, ID: Cultural Resource Consultants, 1981), 38, USA-CDA00001612.

[90] Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," 84, 148, USA-CDA00001045. Regarding ice fishing, Coeur d'Alene Chief Joseph Seltice had this to say: "Fresh fish were plentiful in the river and surrounding lakes, through a ten to twelve inch hole cut in the ice." Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 155, USA-CDA00001740.

[91] Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," 99–100, USA-CDA00001045.

[92] Sven Liljeblad, *The Idaho Indians in Transition* (Pocatello: Idaho State University Museum, 1972), 24, USA-CDA00001987.

buffalo hunting by the Coeur d'Alenes, "Much of the traditional subsistence pattern, the yearly rounds, the hunting areas and fishing sites, the camas grounds, remained unchanged."[93]

Hunting and Trapping

A second pillar of the traditional Coeur d'Alene subsistence pattern was hunting, supplemented by trapping. In these pursuits, too, the Coeur d'Alene people used the abundant water resources of their aboriginal lands. Even after their eighteenth-century adoption of horses and buffalo hunting, the Coeur d'Alene people also continued to hunt their traditional prey within their aboriginal territory, including deer and elk.[94] According to a traditional story documented by Teit, deer were once unknown to the Tribe. "The first deer seen was swimming a lake," he wrote. "A man chased it in a canoe, and shot it with an arrow as it landed." After a tribal elder identified the animal and gave it a name, deer are said to have become abundant in Coeur d'Alene territory.[95]

In practice as well as mythology, the Coeur d'Alene people utilized water to hunt deer. A common method was to drive the game into a lake or waterway crossing, where large numbers of deer could be easily set upon and killed by other hunters waiting in canoes.[96] Deer drives were coordinated group activities that relied on a geographic knowledge of lakes, rivers, and valleys—particularly the St. Joe and Coeur d'Alene Rivers, and around Lake Coeur d'Alene.[97] The Tribe conducted deer drives in summer and winter alike, but according to missionary Joseph Joset, "winter particularly favors its success." Joset offered the following account in 1845:

> The hunters having assembled in great numbers, surround the game in such a manner, that having no other means of escape, it is forced to throw itself into the lakes; it is then pursued in the canoe, and generally the waves carry the prey to the shore. If the lake is broad, those which might have escaped the arms of the Indian, perish in the waters. It has happened in this way, that the tribe has killed as many as three hundred roebucks in one day.[98]

Rivers as well as lakes provided opportunities for deer drives. Benewah crossing (the place where Benewah Creek entered the St. Joe River) was reputed to be among the finest spots for hunting in this manner, particularly in colder months, when numerous animals came in search of scarce forage.

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[93] Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," 145–146, USA-CDA00001045.

[94] Palmer, "Coeur d'Alene," in *Handbook of North American Indians,* 315, USA-CDA00021626.

[95] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 96–97, USA-CDA00003451.

[96] Robert B. Butler, *A Guide to Understanding Idaho Archaeology* (Pocatello: Idaho State University Museum, 1968), 56; Liljeblad, "Indian Peoples in Idaho," 27, USA-CDA00001938; Frey, *Landscape Traveled by Coyote and Crane,* 36, USA-CDA00021676; Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 101, USA-CDA00003451.

[97] Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," 84, 99–100, 147, USA-CDA00001045.

[98] Joseph Joset to Father Fouillot, in Pierre-Jean De Smet, "Missions of the Rocky Mountains," in vol. 7 of *Annals of the Propagation of the Faith* (1846), 373, USA-CDA00001318; Palmer, "Coeur d'Alene," in *Handbook of North American Indians,* 316, USA-CDA00021626.

A homesteader recollected that "one fall the Indians took over four hundred deer at the Benewah crossing."[99]

In addition to deer, the Coeur d'Alene people utilized lakes and waterways to hunt other animals as well. At times, if a stray deer, elk, moose, or bear was caught swimming, Coeur d'Alene hunters would pursue and drown the animal.[100] The Tribe hunted small game near their villages, according to Chalfant, as well as "along the river valleys, and around the lake, particularly in the winter." He added that the Tribe also sometimes hunted along the North Fork of the Coeur d'Alene River, "and perhaps along the main stem of the river as far as Prichard, but this last area is questionable." Summer hunts likewise occurred in the Palouse River region to the south, and along the Little North Fork of the Clearwater River, territory also used by the Palouse and Nez Perce Indians.[101] Even on expeditions into the mountains, according to one of Chalfant's informants, hunting parties generally hewed to the main rivers.[102] The Coeur d'Alene Indians also hunted waterfowl, including grouse, ducks, and geese, along the lakes and rivers in their territory.[103]

Trapping also occurred on Coeur d'Alene waterways—including the Coeur d'Alene and St. Joe Rivers—to capture beaver, muskrat, otter, and mink.[104] The take was sometimes sold commercially: Palmer noted that, in the 1800s, the Coeur d'Alene Indians "provided significant numbers of pelts of water mammals to the fur trade at Spokane House."[105] In addition, the Tribe utilized water to soak skins and hides of all variety, to make them supple for use as garments, blankets, or armor.[106]

Other Aquatic Resources

Besides fishing and hunting, the Coeur d'Alene people relied on a number of other aquatic resources for their survival. Roots and berries, typically collected along waterways, were the final pillar of the Coeur d'Alene subsistence cycle, and tribal members also collected fibers and stone for a variety of purposes.

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[99] Peltier, *Manners and Customs of the Coeur D'Alene Indians*, 39–40, USA-CDA00002674.

[100] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 101, USA-CDA00003451.

[101] Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," 147–148, USA-CDA00001045.

[102] Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," 95, USA-CDA00001045.

[103] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 96, USA-CDA00003451.

[104] Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," 117, 147, USA-CDA00001045.

[105] Palmer, "Coeur d'Alene," in *Handbook of North American Indians,* 316, USA-CDA00021626.

[106] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 46, 117, USA-CDA00003451.

Berries

Berries were an important component of the traditional Coeur d'Alene diet. Stanislaus Aripa, a tribal member interviewed by Stuart Chalfant in 1951, recalled that Coeur d'Alene families often gathered berries along rivers near their main villages. Chalfant wrote that "the berry spots were along the streams and rivers near their winter villages" and were picked particularly in August. "Berries were usually gathered along the creek and river beds near the home villages," he added, "since the Coeur d'Alene region in general has an abundance of this food."[107] According to Frey, the Coeur d'Alene people gathered twenty-two types of berries growing near their villages and along mountain streams, "including huckleberries, serviceberries, and chokecherries." Berry picking typically began in midsummer and continued into early fall.[108] Chalfant and others identified a number of favorite Coeur d'Alene berry-picking sites, including the following:[109]

- Near village sites
- Upper Coeur d'Alene River
- North Fork of the Coeur d'Alene River
- North of Clark Fork River
- North of St. Joe River
- Mouth of Pine Creek
- Eagle Park
- Grandmother Mountain
- Grizzly Mountain
- Mica Peak
- White Mountain
- Engel Mountain
- Saint Joe Baldy Mountain
- Mountains between Sanders and Clarkia, Idaho

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[107] Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," 81, 99, 146, 149, USA-CDA00001045.

[108] Frey, *Landscape Traveled by Coyote and Crane*, 34, USA-CDA00021676.

[109] Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," 149, USA-CDA00001045; Palmer, "Coeur d'Alene," in *Handbook of North American Indians,* 316, USA-CDA00021626; Hudson, et al., *A Cultural Resource Overview for the Colville and Idaho Panhandle National Forests and the Bureau of Land Management—Spokane and Coeur D'Alene Districts* (Sandpoint, ID: Cultural Resource Consultants, 1981), 38, USA-CDA00001612.

Water Potatoes

Water potatoes were another component of the traditional Coeur d'Alene diet, harvested in late fall. These roots, according to Rodney Frey, "grew in the marshy areas along the shores of both Coeur d'Alene and Hayden lakes, often where creeks and streams entered the lakes." Frey further noted, "The water potato was unique to the Schitsu'umsh, not used by any of their immediate neighbors."[110] Also called "mud potatoes" or *sqigwts*, the bulbs often grew under about a foot of mud in lakeshore or riparian areas. A typical water potato might measure about two inches long by three-quarters of an inch around, with "a brown skin covering."[111]

The Coeur d'Alene people harvested water potatoes using a number of methods, from simply digging in the mud to using canoes in shallow water—a stick would be swirled around the stalk of the plant, whereupon it would dislodge and float to the surface.[112] One account described harvesting water potatoes from Benewah Lake:

> Mary's folks used to get them by the gunny sack. Her father would gather two gunny sacks by digging with pitchforks on the shore of the lake in the fall when the water was low. When they are dug or when you move your feet they rose to the top of the water. Then they buried them in a sack about three feet deep in the ground as they would bury potatoes. In the winter they dug them out . . .[113]

According to former tribal chairman David Matheson, water potatoes were the last root harvested by the Coeur d'Alene people during their traditional seasonal cycle. They were celebrated with a feast that was "sort of an Indian Thanksgiving, to wrap up the gathering season, celebrate our living once again and God's great grace to sustain us."[114] In addition to water potatoes, riparian areas may have also supported early Coeur d'Alene farming efforts: in the 1840s, German botanist Charles Geyer noted Coeur d'Alene Indians growing English white potatoes along the Coeur d'Alene River.[115]

Aquatic Grasses

In addition to food items, the Coeur d'Alene people utilized aquatic resources within their aboriginal territory for fiber to make a wide range of necessary items. Among the most important raw materials were rushes and tule reeds, harvested from marshy areas to construct mats—all-purpose items that served a number of applications, particularly before the Tribe's adoption of horses and buffalo hunting. "All the best mats," Teit wrote, "were of rushes (probably *Typha latifolia*)

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[110] Frey, *Landscape Traveled by Coyote and Crane*, 37, USA-CDA00021676.

[111] Palmer, "The Farm of Peter Vincent (Pierre Basa)," 2–3, USA-CDA00002280; Frey, *Landscape Traveled by Coyote and Crane*, 20–21, USA-CDA00021676.

[112] Donna Matheson-Curtis, "Water Potato Day More than Just Another Day Off," *Coeur d'Alene Council Fires*, Series 2, Vol. 9, Issue 10, November 5, 1993, 5, USA-CDA00002035.

[113] Palmer, "The Farm of Peter Vincent (Pierre Basa)," 2–3, USA-CDA00002280.

[114] Matheson-Curtis, "Water Potato Day More than Just Another Day Off," 5, USA-CDA00002035.

[115] Woodworth-Ney, *Mapping Identity*, 21, USA-CDA00021719.

and tule . . ." He added that the Coeur d'Alene Indians used at least three weaving techniques to produce mats, which were used as floor covers, for couches and seats, and as bedding.[116]

Mats made of rushes, tule reeds, and other aquatic grasses were also used to build lodges, both the standard Coeur d'Alene conical lodge and the larger, semi-permanent longhouse. Frey wrote: "Growing in abundance and gathered along the lakes' shores and marshes, especially the southern end of Lake Coeur d'Alene, the tule reeds were sewn together in long, rectangular mats up to several feet in length. In addition to common tule, cattails were occasionally used in the construction of the mats." Conical lodges were covered in mats, and their floors were lined with mats and skins. The mats were also used as insulation, roofing, and flooring in communal Coeur d'Alene longhouses.[117] According to Teit, the Coeur d'Alene people also made a "special berry mat . . . woven of the large leaves of an unidentified plant called *q'wa'sq'wes*, which grows near lakes."[118] Mats were even used as an adjunct to ice fishing, whereby Coeur d'Alene fishermen would lie in wait on tule mats near holes cut in the ice.[119] Moreover, Teit noted that "[a]nything of value" was typically protected from the elements with a covering of mats.[120]

The Coeur d'Alene people also used tule reeds, rushes, and aquatic grasses for other purposes, including basketry. Teit wrote: "Both round and oblong bags woven of rushes on an Indian-hemp string foundation were used for holding and drying berries. Some bags, generally in plain twined weave, were made of swampgrass or of a fine rush."[121] Tule reeds were also used to make rafts: "Tule rafts were pointed at both ends," Teit wrote. "They were made of lodge mats rolled in bundles; or tules were tied in long bundles which were tightly lashed together. A well-made raft resembled a canoe, and was almost as good as one."[122]

Indian hemp was another important aquatic grass traditionally used by the Coeur d'Alene people. According to Mrs. Stanislaus Aripa, a Coeur d'Alene tribal member, Indian hemp was a "tough fiber . . . taken from plants which grow in swampy places. The Coeur d'Alenes in olden times gathered the grass from Lake Coeur d'Alene for the weaving of mats, making of bags and for sewing with bone needles."[123] The Tribe also used Indian hemp for fishing line, and to construct fish traps, nets, and weirs; for making thread and twine; and to construct "deer fences," snares designed to

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[116] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 47, USA-CDA00003451; Peltier, *Manners and Customs of the Coeur D'Alene Indians*, 21, USA-CDA00002674.

[117] Frey, *Landscape Traveled by Coyote and Crane*, 38–39, USA-CDA00021676; Peltier, *Manners and Customs of the Coeur D'Alene Indians*, 21, USA-CDA00002674.

[118] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 47, USA-CDA00003451.

[119] Frey, *Landscape Traveled by Coyote and Crane*, 41, USA-CDA00021676.

[120] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 63, USA-CDA00003451.

[121] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 47–48, USA-CDA00003451.

[122] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 108, USA-CDA00003451; Frey, *Landscape Traveled by Coyote and Crane*, 30, USA-CDA00021676.

[123] "Tribal Treasure," in Harms, ed., *The Coeur D'Alene Teepee, vols. I-III, 1937–40*, 101, USA-CDA00001538.

entrap and strangle deer.[124] Indian hemp, according to Frey, "grew in abundance and was gathered along the St. Joe and Coeur d'Alene Rivers."[125]

Coeur d'Alene use of tule reeds, rushes, and other aquatic grasses reportedly declined with the Tribe's adoption of horses and buffalo hunting. In Teit's words:

> After horses became plentiful, and the mode of life of the tribe changed, owing to the annual buffalo hunting, all kinds of woven baskets, bags, and mats rapidly went out of use, and the art of making many of them soon became lost. . . .
>
> After buffalo hunting was engaged in by the Coeur d'Alene, tents of buffalo skins, like those used by the Flathead and neighboring Plains tribes, began to supersede all other kinds of lodges, and soon became the only kind used in traveling.[126]

However, some aquatic grasses, particularly Indian hemp, remained important after buffalo hunting: Teit pointed out that Indian hemp was among the principal trade items sought by Plains tribes.[127]

River and Lake Stone

Some scholars have noted the use of river and lake stone by the Coeur d'Alene people. Jerome Peltier, for instance, indicated that the Coeur d'Alene Indians utilized river or lake cobbles for hammers, choppers, and pestles "formed to nearly the proper shape by nature."[128] Similarly, Teit wrote that the Tribe sometimes procured stones for arrowheads and other implements from around Chatcolet Lake.[129] In addition, stones from Lake Coeur d'Alene may have been used for ceremonial purposes.[130] The use of river and lake stone represents another way in which the Coeur d'Alene people utilized aquatic resources within their aboriginal territory.

Transportation

Lakes and waterways were a principal means of transportation within aboriginal Coeur d'Alene territory. As early as 1854, "[t]hick undergrowth was noted as a serious annoyance and major

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[124] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 46–47, 55, 103–105, USA-CDA00003451; Frey, *Landscape Traveled by Coyote and Crane*, 55, USA-CDA00021676.

[125] Frey, *Landscape Traveled by Coyote and Crane*, 29, USA-CDA00021676.

[126] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 53–54, 58, USA-CDA00003451.

[127] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 114, USA-CDA00003451.

[128] Peltier, *Manners and Customs of the Coeur D'Alene Indians*, 29, USA-CDA00002674; Walker, *American Indians of Idaho*, vol. 1, 53, USA-CDA00004653.

[129] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 42, USA-CDA00003451.

[130] E. Richard Hart, Fieldnotes: Meeting with Coeur d'Alene Tribal Council (Norma Peone, Albert Garrick, Ernie Stensgar, Lawrence Aripa, Henry SiJohn, Margaret Jose), and Their Attorneys, Ray Givens, and Howard Funke, Also Public Affairs Officer Bob Bostwick; Then Interview with Dixie Saxon at Heyburn State Park, May 12, 1993, 1, USA-CDA00001595.

obstacle to Isaac I. Stevens' party" in their search for a railway route through the area.[131] Missionary Pierre-Jean De Smet, traveling by horse, characterized the territory as follows:

> Imagine thick, untrodden forests, strewn with thousands of trees thrown down by age and storms in every direction; where the path is scarcely visible, and is obstructed by barricades, which the horses are constantly compelled to leap, and which always endanger the riders. Two fine rivers, or rather great torrents,—the Coeur-d'Alene and St. Francis Borgia,—traverse these forests in a most winding course; their beds are formed of enormous, detached masses of rock, and large slippery stones, rounded by the action of the water. The first of these torrents is crossed thirty-nine times, and the second thirty-two times, by the only path; the water often comes to the horse's belly, and sometimes above the saddle.[132]

The Coeur d'Alene people used a variety of canoes, dugouts, and rafts to navigate the numerous waterways of their territory.[133] Before horses, canoe travel down the Coeur d'Alene River was the first component of the annual migration to the camas prairies in the spring and summer.[134] Canoes and lake travel were also sometimes used, according to one traditional story, to attack neighboring tribes.[135] Because much of their aboriginal territory was rugged, mountainous, and heavily forested, the principal routes of travel followed watercourses. The main travel routes east, for example, were along the Coeur d'Alene River and the St. Joe River.[136] De Smet, traveling in this direction toward Flathead country in 1845–1846, wrote that "we wound our way for two days, through forests almost impenetrable, and over immense beds of rock, always following the course of the river."[137]

As with other aspects of the Tribe's aboriginal lifestyle, some anthropologists have suggested that the Coeur d'Alenes' reliance on water-based transportation may have gradually altered following the adoption of horses. According to Teit, "canoe travel" was "gradually forsaken for buffalo hunting and travel by horse."[138] Similarly, Woodworth-Ney argued that horses "facilitated travel within Coeur d'Alene country," and they "gradually replaced the canoe as the most popular mode of assisted transport."[139] Despite this, historical evidence shows a continued reliance on canoes for transportation through the latter decades of the nineteenth century.[140]

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[131] Bischoff, "The Coeur D'Alene Country, 1805–1892," 2, USA-CDA00000824.

[132] De Smet, *New Indian Sketches*, 91, USA-CDA00001327.

[133] Frey, *Landscape Traveled by Coyote and Crane*, 30, USA-CDA00021676.

[134] Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," 81–82, USA-CDA00001045.

[135] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 124, USA-CDA00003451.

[136] Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," 149–150, USA-CDA00001045.

[137] Pierre-Jean De Smet, *Oregon Missions and Travels Over the Rocky Mountains in 1845–46* (Fairfield, WA: Ye Galleon Press, 1978), 269, USA-CDA00001346.

[138] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 151, USA-CDA00003451.

[139] Woodworth-Ney, *Mapping Identity*, 13, USA-CDA00021719.

[140] See, for example, Testimony of H. S. Young, February 11, 1910, vol. 10, Permit Hearing 1910, Department of the Interior, Records Relating to Legal Action Taken by the Washington Water Power Company [WWPC], Eastern Washington University Archives, Cheney, Washington [EWU Archives], pp. 4869–4870, USA-CDA00008363.

Mythology, Language, and Culture

As much as the Coeur d'Alene people relied upon water for subsistence needs, water was also an element of traditional Coeur d'Alene mythology, language, and culture. In these ways, water's significance in Coeur d'Alene life presented itself in non-material manifestations.

Mythology

According to Teit, some tribal members believed the earth was "surrounded by water on all sides, while others thought there was water on two sides only. . . . Some people believed there was only water before the earth was made."[141] Astrological features identified by the Coeur d'Alene people included constellations representing canoes, lakes, and water birds.[142] Their mythology held that the world had once been dry, and that pre-human entities such as Coyote had introduced salmon and had made fishing places.[143]

In 1947, folklorist Gladys A. Reichard produced an analysis of Coeur d'Alene myths and tales to study their cultural meanings.[144] As noted by historian E. Richard Hart, "Many stories relating to the waterways were recorded and analyzed, including stories and narratives associated with the lake, the rivers, fish, fishing, water birds, gathering near the lake, and supernatural myths involving the lake."[145] Meanwhile, according to Reichard, "Numerous references are made to fishing, but there is nothing specific or unusual about it except where it is avowedly mysterious."[146]

Teit also recorded a number of Coeur d'Alene stories involving supernatural beings associated with lakes and waterways, as well as tales related to fishing. He wrote that "mysterious powers were usually in mountain peaks, waterfalls, lakes, and sometimes in trees." As a rule, according to Teit, "water mysteries" arose from lakes, not on land. He added:

> The "mystery" of each locality had a well-defined form of its own, no two being alike. In one lake the form of "mystery" seen was half mammal and half human; in another lake, half human and half fish; in another place it was entirely of mammal form, being like a huge buffalo; and in another place it was like a huge fish. . . .
>
> . . . There were also "mysteries" at other parts of Coeur d'Alene Lake to which the Indians made payments and asked for good weather on the lake and good luck in fishing.[147]

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[141] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 176, USA-CDA00003451.

[142] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 179, USA-CDA00003451.

[143] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 176–177, USA-CDA00003451.

[144] Gladys A. Reichard, *An Analysis of Coeur D'Alene Indian Myths* (Philadelphia: American Folklore Society, 1947), USA-CDA00002963.

[145] Hart, "A History of the Coeur d'Alene Tribe's Claim to Lake Coeur d'Alene," vol. 1, submitted to the U.S. Department of Justice, *United States v. Idaho*, July 15, 1996, 40–41, USA-CDA00000001.

[146] Gladys A. Reichard, *An Analysis of Coeur D'Alene Indian Myths* (Philadelphia: American Folklore Society, 1947), 36–53, USA-CDA00002963. Quotation appears on page 41.

[147] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 181–183, USA-CDA00003451.

Other scholars identified a "creator water spirit" in Coeur d'Alene mythology, who sat "at the head of the Coeur d'Alene River and ruled over the waters." Water monsters also played a role in certain stories.[148] Some Coeur d'Alene stories and myths portray water as a source of food, a means of travel, and a location for mysterious or dangerous forces.[149] Coeur d'Alene war stories, too, sometimes referenced waterways, often as places of healing or safety. In one story, for example, a wounded Coeur d'Alene Indian requested to be taken to a small spring near DeSmet, where she recovered from her injuries. In another instance, a creek provided cover for a Coeur d'Alene family seeking to escape adversaries.[150]

In 1993, sociologist Robert McCarl produced an analysis of Coeur d'Alene folklore—including traditional and modern myths, legends, and personal accounts—to examine the Tribe's cultural relationships to lakes and rivers.[151] McCarl found that Lake Coeur d'Alene and the waters that flowed into it provided the Coeur d'Alene people with an axis for understanding their environment, culture, and history.[152] "Coeur d'Alene myths," he wrote, "return us again and again to our relationship to the water and an aquatic world in an environment of towering mountains and seemingly endless, landlocked wilderness."[153] McCarl concluded that "the Coeur d'Alene people, in the pre-literate past and today, have been and continue to be inextricably linked to the inland aquatic world centered on Lake Coeur d'Alene."[154]

Language

Water-related concepts, structures, and names were also embedded in Coeur d'Alene language. On a structural level, Reichard found that the Coeur d'Alene language exhibited an "extreme use of locative ideas, especially emphasis on place and direction."[155] The Coeur d'Alene people possessed a vocabulary necessary to describe aquatic environments, and their language included generic words for concepts such as lake and river, as well as more specific terms for objects or animals associated with water, such as canoe, beaver, duck, salmon, and sturgeon.[156] Their language also included terms

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[148] Palmer, "Coeur d'Alene," in *Handbook of North American Indians,* 319–320, USA-CDA00021626.

[149] Walker, *American Indians of Idaho*, vol. 1, 177–206, USA-CDA00004653; Deward E. Walker, Jr., *Myths of Idaho Indians* (Moscow: University of Idaho Press, 1980), 61–102, USA-CDA00004703.

[150] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report,* 122, USA-CDA00003451.

[151] Robert McCarl, "A Spatial Analysis of Coeur d'Alene Traditional Literature: Aquatic Culture and Cultural Survival through Narrative," submitted to the Institute of the North American West, August 20, 1993, 4–5, USA-CDA00002038.

[152] McCarl, "A Spatial Analysis of Coeur d'Alene Traditional Literature," 108, USA-CDA00002038.

[153] McCarl, "A Spatial Analysis of Coeur d'Alene Traditional Literature," 103, USA-CDA00002038.

[154] McCarl, "A Spatial Analysis of Coeur d'Alene Traditional Literature," 109, USA-CDA00002038.

[155] Gladys A. Reichard, "Imagery in an Indian Vocabulary," *American Speech* 18, no. 2 (April 1943): 96–97, USA-CDA00003076.

[156] Mengarini, "Vocabulary of the S'chit-zui," 268–283, USA-CDA00002157.

without a direct English equivalent, with at least ten words for water in different states or circumstances.[157]

The Coeur d'Alene people also used a sign language common to Northwest tribes. Teit reported that this language included signs for salmon (or fish), lake trout, and lake.[158] Tribal names in the sign language also often referenced water or aquatic culture. Teit translated the name for the Pend Oreille as "canoe people," the Spokane as "salmon eaters," and the Colville as "salmon fishers at falls." However, the sign for the Coeur d'Alene people—translated as "Bow and arrow people of the west"—did not contain a water reference. According to Teit, other tribes used the sign of "bow and arrow" to refer to the Coeur d'Alene because "at a time when all the other buffalo-hunting tribes had at least some guns the Coeur d'Alene were still using bows and arrows."[159]

Other Cultural Elements

Water had significance in other aspects of Coeur d'Alene life as well, distinct from subsistence, mythology, or language. For example, the Tribe used lakes and waterways for competition and recreation. Teit observed: "All the Indians could swim. . . . Sometimes there were swimming races. Nearly all the men could dive, and some men could dive right across St. Joe River." Canoe racing was another common event.[160]

Just as water was important to the Coeur d'Alene people in life, so too did it have meaning in their death ceremonies. Burial practices involved ritual use of water and aquatic items. Typically, bodies were washed and sometimes bound in tule robes.[161] People who buried or handled corpses were also required to bathe in running water, and canoes were "sometimes deposited" at grave sites.[162] Bodies were also interred on river banks.[163] Archaeologist Tom O. Miller, Jr., in 1954 described several burial sites discovered in close proximity to the Coeur d'Alene River.[164] In addition, a list of Benewah County burial grounds indicated that many Coeur d'Alene burials occurred close to lakes and rivers, including Lake Coeur d'Alene, the Spokane and Coeur d'Alene Rivers, and Lake Chatcolet.[165]

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[157] Lawrence G. Nicodemus, *Snchitsu'umshtsn: The Coeur d'Alene Language*, vol. 2 (Spokane, WA: Coeur d'Alene Tribal Council, 1975), 350, USA-CDA00002244.

[158] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 135–144, USA-CDA00003451.

[159] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 144–148, USA-CDA00003451.

[160] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 134, USA-CDA00003451.

[161] Walker, *American Indians of Idaho*, vol. 1, 103–104, USA-CDA00004653.

[162] Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report*, 174, USA-CDA00003451.

[163] Walker, American Indians of Idaho, vol. 1, 103–104, USA-CDA00004653.

[164] Tom O. Miller, Jr., "Four Burials from the Coeur D'Alene Region, Idaho," *American Antiquity* 19, no. 4 (April 1954): 389–390, USA-CDA00002175.

[165] Alfred E. Shane and Betty J. Shane, "Benewah County, Idaho, Cemeteries & Coeur d'Alene Indian Burial Grounds, 1844–1987," unpublished manuscript, Library of Congress, 1987, 41–42, USA-CDA00003204.

Conclusion

The Coeur d'Alene people made extensive use of the lakes, rivers, and aquatic resources within their aboriginal territory. Prior to contact with Americans and Europeans, they established their permanent villages on lakes or waterways, and the Tribe followed an annual subsistence cycle that relied upon fishing, hunting, and gathering. Many of these activities involved water and aquatic resources, particularly fishing, some types of hunting, and gathering berries, water potatoes, and grasses. While not all of the Tribe's subsistence activities focused directly on water—for example, digging for camas on the prairies, or hunting bear and elk in the mountains—even these actions often involved water-based transportation by canoe. Water also played an important role in Coeur d'Alene mythology, language, and cultural practices. The Tribe's eighteenth-century adoption of horses and buffalo hunting may have lessened, but did not end, its reliance on aquatic resources. Even after buffalo hunting was incorporated into the Tribe's annual subsistence cycles, the Coeur d'Alene people continued to rely on lakes and rivers for a significant portion of their subsistence and cultural endurance.[166]

[166] Palmer, "Coeur d'Alene," in *Handbook of North American Indians,* 322, USA-CDA00021626.

3. Isaac Stevens, the Northern Plateau War, and the Coeur d'Alene Indians, 1853-1865

Isaac Stevens's Abandoned Treaty with the Coeur d'Alenes, 1853-1855

Stevens's 1853 Encounter with the Coeur d'Alene Indians

Euroamerican influences—diseases, horses, explorers, missionaries—had begun impacting the Coeur d'Alene people a century before the establishment of Washington Territory. The territory's creation in 1853, however, along with the appointment of its first governor, Isaac Stevens, "heralded unprecedented changes" for the Tribe's future. Serving a dual role as governor and superintendent of Indian affairs for the nascent territory, Stevens had several goals in mind as he journeyed to Olympia in the latter half of 1853. Primary among these was his desire to locate a transcontinental railroad route that would, in the words of historian Carlos Schwantes, "further his dream of building an empire of white settlers in the Pacific Northwest." Bringing this vision to fruition, however, required the extinguishment of Indian title to broad swaths of land throughout the region. As Woodworth-Ney succinctly put it, Stevens's vision for the region's future "placed the United States and the Native American peoples of the Pacific Northwest on a collision course."[167]

Stevens's initial expedition to Washington Territory brought him into contact with many of the area's tribes, including the Coeur d'Alenes. Following his first meeting in October 1853 with tribal members living near the Cataldo Mission, Stevens remarked favorably on their "peaceable" nature and on their agricultural activities:

> I was much struck with the comparative condition of the Indians, at the Coeur d'Elain [*sic*] Mission. They have large fields of wheat and potatoes, they have been well taught by the indefatigable labor of the Fathers & Laymen of the Mission. These with the assistance of the Indians have erected a church, which, is really a splendid building considering its situation; and by whom the labor upon it was performed. Lieut. Donelson, on his route by Clark's fork, met large numbers of Indians of the same Tribes; and found them all honest and peaceable. The remarkable honesty of these Indians was a subject of wonder to me.[168]

[167] Woodworth-Ney, *Mapping Identity*, 40–44, USA-CDA00021719; Carlos Schwantes, *The Pacific Northwest: An Interpretive History* (Lincoln: University of Nebraska Press, 1989), 104–105, USA-CDA00003164.

[168] Isaac I. Stevens, Gov. and Supt., Washington Territory, to the Commissioner of Indian Affairs, December 6, 1853, W-303, Roll 907, M234, frames 87–94, USA-CDA00021134.

A subsequent account of this initial meeting—published in Stevens's "final report of explorations for a route for a Pacific railroad"—provided additional details about the Tribe's agricultural endeavors, as well as their continuing reliance on traditional subsistence activities. Impressed by the farming activities of the Indians living near the mission, Stevens reported that they had roughly 100 acres "enclosed and under cultivation" along the "Eastern prairie adjoining the Mission." Stevens claimed that this provided "employment to thirty or forty Indians—men, women, and children," some of whom he observed plowing, "sowing wheat," and "digging potatoes." He also remarked that there was "quite a village of Indians near the Mission," most of whom still lived "in lodges" while a few had "log-houses." Notably, given that 1850s-era population estimates of the Coeur d'Alenes placed their numbers at "about 500," Stevens's report of "thirty or forty Indians" living near the mission indicates that up to 90 percent of tribal members lived away from the Cataldo Mission, subsisting according to their seasonal migrations.[169]

Comments made by Stevens in his accounts of his first meeting with the Coeur d'Alenes further support this conclusion. First, he indicated that even those tribal members who were living near the mission did not rely solely on agriculture for their sustenance. Instead, Stevens indicated that they continued to "procure their subsistence in the summer by hunting and fishing," relying on the wheat and potatoes grown at the mission farm only "for living during the winter."[170] Similarly, scholars have noted that, during the construction of the Cataldo Mission in the 1850s, tribal members were able to work on the building "for only short periods, being compelled to leave to fish, dig camas roots, hunt buffalo, and cultivate their crops."[171]

Discussing the period immediately prior to Stevens's arrival, Chief Joseph Seltice also noted the ongoing importance of fishing, hunting, and gathering roots and berries according to the Tribe's traditional subsistence cycles. He wrote:

> Camas was an important winter provision, and as soon as it was ripe and ready to dig, the Coeur d'Alenes could not ignore it for the sake of their horse racing. Everyone had a pointed instrument to dig camas, for it was a delicious and favorite food. The Coeur d'Alenes dug camas in the vicinity of Clarkia, Emida, DeSmet, Oakesdale, Rosalia and Spangle.
>
> . . . After camas digging, the huckleberries were ripening on all the mountains. This was the favorite fruit of the Coeur d'Alenes, and they always dried large quantities of them for the winter. Fresh berries are very tasty throughout the huckleberry season, which runs through July and August.
>
> . . . After the celebration at the Mission [the Feast of the Assumption on August 15], they headed back again into the Clearwater and Bitterroot Ranges for their winter supply of meat. Old Grizzly

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[169] Isaac I. Stevens, *Narrative and Final Report of Explorations for a Route for a Pacific Railroad Near the Forty-Seventh and Forty-Ninth Parallels of North Latitude, from St. Paul to Puget Sound*, in House, *Reports of Explorations and Surveys, to Ascertain the Most Practicable and Economical Route for a Railroad from the Mississippi River to the Pacific Ocean*, Vol. 12, Book 1, 36th Congress, 1st session, 1860, H. Ex. Doc. 56, serial 1054, 133 [hereinafter cited as Stevens, *Narrative and Final Report of Explorations*], USA-CDA00003387. For the population estimate of the Coeur d'Alene Indians in 1850, see Woodworth-Ney, *Mapping Identity*, 21, USA-CDA00021719.

[170] Stevens, *Narrative and Final Report of Explorations*, 133, USA-CDA00003387.

[171] Ella E. Clark, "The Old Mission," *Idaho Yesterdays* 15, no. 3 (Fall 1971): 22–24, USA-CDA00001133.

> Mountain and the head of the Coeur d'Alene River were filled with game: elk and deer, and brown and black bear. The elk licks on the Clearwater Range could easily supply the entire Tribe with winter meat. On the Little North Fork of the Clearwater, the salmon could be hooked out of the river nearly as fast as you could throw them on the bank.[172]

As reflected in Seltice's description, Stevens encountered several Coeur d'Alene Indians in areas far removed from the mission. Some of these tribal members were "occupied with their trout fisheries" on the upper Spokane River, while others were traveling east toward their hunting grounds in the mountains. Additionally, the governor commented that many tribal members lived along the St. Joe River, which reportedly had "finer lands and larger prairies than those of this Mission." Finally, Stevens marveled at the "ingenious method of hunting deer" engaged in by the Coeur d'Alenes and other area tribes. He wrote:

> When the Coeur d'Alenes, Pend d'Oreilles, Spokanes, and Nez Perces meet together to fish and hunt, they form a large circle, and upon the trees around its circumference attach pieces of cloth made to resemble the human figure as much as possible. Then the hunters enter the area and start up the deer. Each cloth having the effect of a man, the deer being afraid to pass them are kept within the circle and easily killed. Last year the Pend d'Oreilles killed 800 in one hunt; the Coeur d'Alenes more than 400.[173]

Stevens not only admired the Tribe's "ingenious" hunting methods but also expressed awe at the sheer beauty of the Coeur d'Alene landscape—a landscape dominated by lakes, rivers, and heavily forested mountains. Describing Lake Coeur d'Alene, Stevens wrote, "It is a beautiful sheet of water, surrounded by picturesque hills mostly covered with wood. Its shape is irregular, unlike that given it upon the maps. Its waters are received from the Coeur d'Alene river, which runs through it." He was likewise impressed with the site of the not-yet-complete Cataldo Mission, noting that it was "beautifully located upon a hill overlooking extensive prairies stretching to the east and west toward the Coeur d'Alene mountains and the Columbia river."[174] (See Figure 4.)

However, Stevens was not only interested in the magnificence of the area's landscape but also in its adaptability to transportation routes and non-Indian settlement. For example, he closed his discussion of Lake Coeur d'Alene by commenting on the navigability of the rivers that flowed into and out of the lake, noting in particular that the Coeur d'Alene River was "navigable nearly to the Mission." Meanwhile, after his 1855 visit, he claimed the Coeur d'Alene country was "well adapted to settlement," writing:

> The whole valley of the Coeur d'Alene and Spokane is well adapted to settlement, abounding in timber for buildings and for fires, exceedingly well watered, and the greater portion of the land arable.

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[172] Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 60, USA-CDA00001740.

[173] Stevens, *Narrative and Final Report of Explorations*, 132–134, USA-CDA00003387. Blockquote on page 134.

[174] Stevens, *Narrative and Final Report of Explorations*, 133, 135, USA-CDA00003387.

> . . . It will be safe to pronounce the whole country north of the Spokane, and lying between the main Columbia and the Koutenay and the Coeur d'Alene mountains, as a cultivable country, although the dense forests will be an obstacle in the way of rapid occupation of the country.[175]

Inextricably connected to Stevens's vision of promoting non-Indian settlement and securing viable transportation routes across the Pacific Northwest were his efforts to obtain land cessions from the region's Indian tribes. He began advocating for the negotiation of agreements to achieve such ends within two months of his first meeting with the Coeur d'Alenes. Writing to Commissioner of Indian Affairs George Manypenny in December 1853, Stevens unequivocally stated, "The Indian title to land East of the Cascade mountains, should at once be extinguished." Claiming that there was "much valuable land, and an inexhaustible supply of Timber, East of the Cascades," he argued that "its speedy settlement" was "so desirable, that, all impediments should be removed." Toward this end, he proposed visiting all of the tribes east of the Cascades with a view to securing treaties to establish reservations and open lands to non-Indian settlement.[176]

The 1855 Stevens Treaties and the 1855-1856 Yakama War

In accordance with Stevens's proposal, Commissioner Manypenny issued instructions to the governor in August 1854 to begin negotiating with the tribes in Washington Territory, "commencing with those tribes in the vicinity of the settlements of the whites." The "principal aim" of these treaties, as explained by Manypenny, was "the extinguishment of the Indian claims to the lands, and the concentration of all the tribes and fragments of tribes on a few reserves of limited extent, naturally suited to the requirements of the Indians." Reflecting Indian Office policy of the 1850s, the reservations were to be "located, as far as practicable, so as not to interfere with the settlement of the Territories."[177]

After negotiating a series of treaties with the coastal Washington tribes, Stevens opened talks with the Indians east of the Cascades in May 1855, convening a council with several Plateau tribes near present-day Walla Walla, Washington. By the second week of June, three treaties had emerged from this council—the Yakama Treaty, the Nez Perce Treaty, and the Walla Walla, Cayuse, and Umatilla Treaty. According to Woodworth-Ney, the Coeur d'Alene Indians did not participate in the Walla Walla Council, although Stevens's speech at the Cataldo Mission on June 26, 1855, indicated that at least some tribal members were "present" at the negotiations.[178]

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[175] Stevens, *Narrative and Final Report of Explorations*, 135, 254, USA-CDA00003387. Blockquote on page 254.

[176] Isaac I. Stevens, Gov. and Supt., Washington Territory, to George Manypenny, Commissioner of Indian Affairs, December 29, 1853, W-322, Roll 907, M234, frames 114–118, USA-CDA00021142.

[177] George W. Manypenny, Commissioner of Indian Affairs, to R. McClelland, Secretary of the Interior, November 26, 1855, *Annual Report of the Commissioner of Indian Affairs, 1855* [hereinafter ARCIA 1855], 12, USA-CDA00021158.

[178] Woodworth-Ney, *Mapping Identity*, 49–50, USA-CDA00021719; James Doty, *Journal of Operations of Governor Isaac Ingalls Stevens of Washington Territory in 1855*, Edward J. Kowrach ed. (Fairfield, WA: Ye Galleon Press, 1978), 37, USA-CDA00021163.

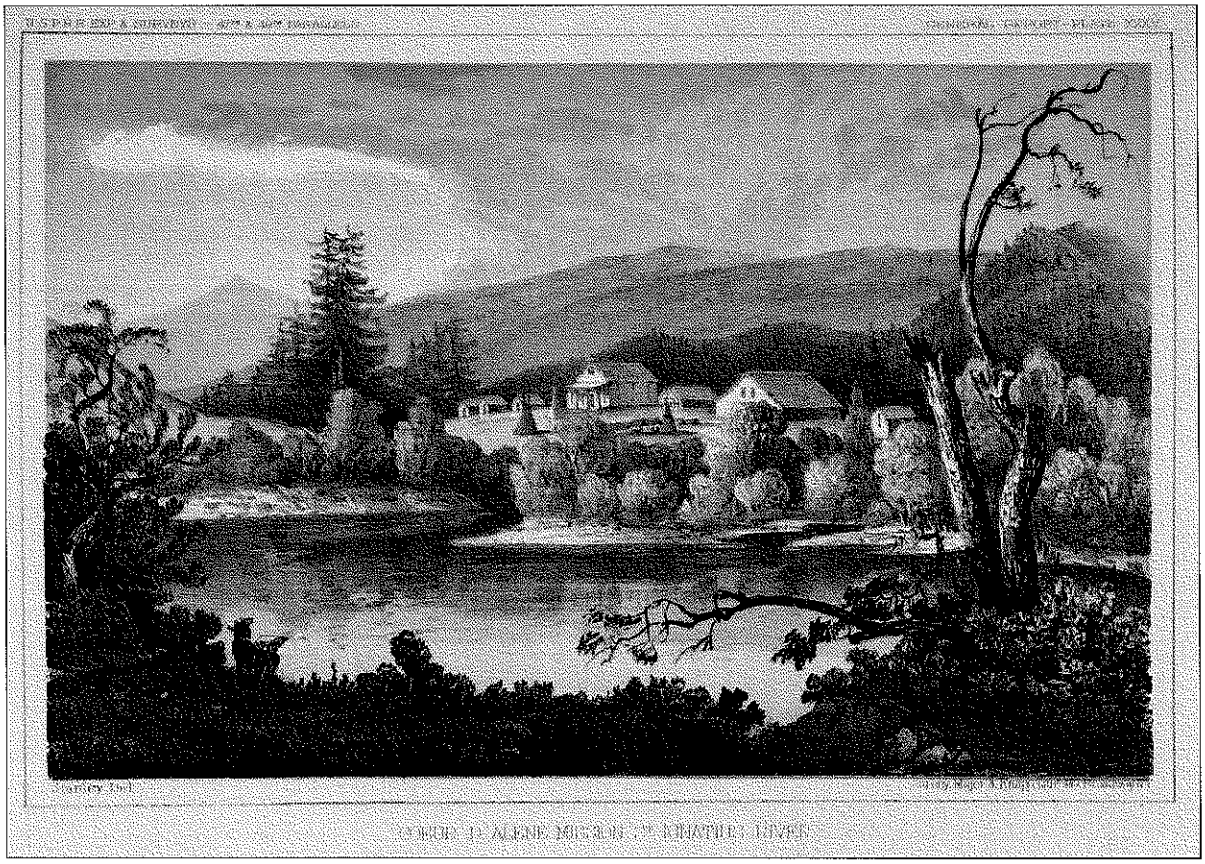

Figure 4. Cataldo Mission on the Coeur d'Alene River.
Source: Stevens, *Narrative and Final Report of Explorations*, 133.

While traveling from the Walla Walla Council to the Cataldo Mission in mid-June, Stevens reported encountering 250 Coeur d'Alene tribal members "at the Root Grounds." Likewise, James Doty, the secretary for the treaty negotiations, indicated that "twenty-nine lodges of Coeur d'Alene Indians" were "digging Camash" in an area along Hangman (Latah) Creek that was "known as the Camash Prairie of the Coeur d'Alenes." As with Stevens's reports of his 1853 meeting with the Tribe, the involvement of roughly half the Tribe in camas digging in the summer of 1855 underscored the ongoing importance of their traditional subsistence patterns.[179] Moreover, Stevens reported that the Coeur d'Alenes assisted his entourage by providing canoes to aid their travel at lake and river crossings.[180]

[179] Isaac I. Stevens to George Manypenny, July 17, 1855, W-586, Roll 907, M234, frames 433–435, USA-CDA00021147; Doty, *Journal of Operations of Governor Isaac Ingalls Stevens*, 36, USA-CDA00021163.

[180] Stevens, *Narrative and Final Report of Explorations*, 200–201, USA-CDA00003387.

Since Stevens did not anticipate difficulties negotiating a treaty with the Coeur d'Alene Indians, his meeting with them at the mission on June 26, 1855, was brief. Primarily, he told tribal leaders that he did not have time to negotiate with them at that time, but he intended to return in the autumn to discuss a proposed "agreement by which you will sell your lands and live upon a Reservation."[181] Writing to Commissioner Manypenny three weeks later, he expressed full confidence that future treaty councils "at the Coeur d'Alene Mission and on the Spokane" in the fall of 1855 would "be successful."[182] That summer, however, he was principally focused on an upcoming peace treaty with the Blackfeet Indians. He told the assembled Coeur d'Alene leaders:

> I am now going to the Blackfoot Country. There is not time to hold a council here. When I return probably about the middle of September, I wish to meet in Council at Antoine Plante's place, the Spokanes, Colvilles, Okinakanes, and Coeur d'Alenes and see if we cannot make an agreement by which you will sell your lands and live upon a Reservation. About this Reservation and the Treaty, some of you heard at Walla Walla. We wish to make with you a Treaty like those made with the Nez Perces and Yakimas and Cayuses, Umatillas and Walla Wallas. You know what the Government has promised in those Treaties and I need not enter into their particulars.[183]

Despite Stevens's stated intentions and promises to the Coeur d'Alenes, his plan to negotiate a treaty with the Tribe in the autumn of 1855 did not materialize. Less than two weeks after signing the much-anticipated peace treaty with the Blackfeet on October 17, 1855, Stevens received "startling intelligence" that the Yakamas had "broken out into open war" in central Washington. Crossing the Bitterroot Mountains in late November "in snow 2½ to 3 feet deep," Stevens and his party reached the Cataldo Mission on November 25. Notably, his men encountered "a considerable party of Coeur d'Alenes" traveling east to hunt, once again highlighting the continued importance of the Tribe's seasonal subsistence cycles. Although the Coeur d'Alenes were reportedly "much excited" about news of the so-called Yakama War, Stevens claimed he was able to establish "the most cordial relations" with them upon his arrival at the mission.[184]

After spending two days at Cataldo and holding "several talks" with the Coeur d'Alenes, Stevens and his party marched to "Antoine Plante's—the place selected for the Spokane Council," arriving there on November 27, 1855. On December 2, he opened the first of three days of talks with "all the chiefs and people of the Coeur d'Alenes and of the Spokanes," as well as some Colville Indians who "also were present." Stevens later described the Spokane Council as "one of the most stormy councils for three days that ever occurred in my whole Indian experience," noting that the Spokanes and Colvilles initially "evinced extreme hostility of feeling" and "would make no promises to remain neutral." However, at the conclusion of this "stormy council," Stevens reported that all three tribes,

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[181] Doty, *Journal of Operations of Governor Isaac Ingalls Stevens*, 37, USA-CDA00021163.

[182] Isaac I. Stevens to George Manypenny, July 17, 1855, W-586, Roll 907, M234, frames 433–435, USA-CDA00021147.

[183] Doty, *Journal of Operations of Governor Isaac Ingalls Stevens*, 37, USA-CDA00021163.

[184] Doty, *Journal of Operations of Governor Isaac Ingalls Stevens*, 40–41, USA-CDA00021163; Stevens, *Narrative and Final Report of Explorations*, 224, USA-CDA00003387.

including the Coeur d'Alenes, "were entirely conciliated, and promised that they would reject all overtures of the hostile Indians, and continue the firm friends of the whites."[185]

James Doty, Stevens's secretary during the 1855 treaty negotiations, kept a journal in which he recorded a transcript of the December 1855 Spokane Council. According to this transcript, Stevens opened the talks on the afternoon of December 2 by attempting to dispel the "false stories" then circulating that he had "come to steal" Indian lands through treaty negotiations. Instead, he claimed that he wanted to "protect" the tribes, assuring them that "nothing will be done without your full consent." As further evidence of his friendly intentions, Stevens noted that the October 1855 Blackfeet treaty had resulted in "getting Buffalo Ranges for you—making Peace that you might hunt the Buffalo," thereby allowing Coeur d'Alene, Nez Perce, and Flathead hunters to travel east of the mountains that autumn. Outlining his intentions for the still-anticipated treaties with the Coeur d'Alene, Spokane, and Colville tribes, Stevens stated:

> We want to protect you. We want to promote your comfort and happiness, we desire that you should have more and better food, houses, farms and cattle. Everything which the White men have.
>
> When we talk to an Indian about land, we talk about what is his. When we wish to purchase his land, it is for him to say whether he will sell it or not. If he does not wish to sell it he will say so. We shall never drive him from his lands. I want you to think of this. I want you to show me your hearts. Whether you think me your friend—whether you think I will do all I can to protect you.[186]

After cancelling the December 3 council because of snow, Stevens opened talks the next day by again reassuring the Indians that their "rights will be protected" and that military forces would not "be sent here to take [lands] from you." Despite opening with discussions about reservations and land cessions, Stevens's primary aim at the 1855 Spokane Council was to ensure that "Peace and friendship" existed between the Coeur d'Alenes, Spokanes, and Colvilles and "all Whites." Recognizing that some of the tribal leaders desired "even now . . . to make a Treaty about lands," he told them, "If it be so, I say to such, I do not think we could agree *now*." "We want more time to think of it, than we have now," Stevens continued, "When you want to talk to me about your lands, by and by I shall be ready to talk." Concluding the first day of negotiations, Stevens reiterated, "I have not come here now to urge upon you the sale of your lands. . . . I think it is better for you that your minds be settled and quieted."[187]

Stevens, though, had minimal success trying to separate discussions about land cessions from peace talks, since many of the assembled Spokanes, Coeur d'Alenes, and Colvilles blamed the

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[185] Doty, *Journal of Operations of Governor Isaac Ingalls Stevens*, 41–42, USA-CDA00021163; Stevens, *Narrative and Final Report of Explorations*, 224–225, USA-CDA00003387; Stevens to Jefferson Davis, Secretary of War, February 19, 1856, in Senate, *Report of the Secretary of War . . .*, 34th Congress, 1st session, May 12, 1856, S. Ex. Doc. 66, Serial 822, 5, USA-CDA00021209. With regard to the location of the December 1855 Spokane Council, Woodworth-Ney indicated that Antoine Plante "operated a ferry about ten miles above Spokane Falls," which was a "well-known landmark" at the time. Woodworth-Ney, *Mapping Identity*, 187, footnote 36, USA-CDA00021719.

[186] Doty, *Journal of Operations of Governor Isaac Ingalls Stevens*, 42–43, USA-CDA00021163.

[187] Doty, *Journal of Operations of Governor Isaac Ingalls Stevens*, 44–48, 51, USA-CDA00021163.

ongoing hostilities in Washington Territory on the terms of the 1855 treaties and on Stevens's conduct during those negotiations. Tribal leaders were particularly troubled about the governor's reported plans to "move the Coeur d'Alenes and Spokanes to the Nez Perce Country." According to one Spokane chief, "We had in our hearts that if you tried to move us off, we would die on our land. That is what we had in mind on hearing that news." Meanwhile, Spokane Chief Big Star faulted Stevens for failing to negotiate a treaty with the assembled tribes:

> The reason I am talking now is that all the Indians did not like what you said at the Walla Walla Council. They put all the fault on you, of the trouble since. The Indians, say you are the cause of the war. My heart is very small towards you. . . .
>
> You have not yet made a Treaty and you passed by us, although I heard you were coming into our country, and your people have commenced coming—the Miners—and they will upset my land. If you had made a Treaty here before you went up, it would not have happened that way. That is my mind now. If you had made a Treaty this summer, those troubles would not have happened, it would all be right now. My heart is against those who are making the troubles. Now you see if we had made a Treaty last summer, we would have been all right.[188]

Big Star further asserted that, at the Walla Walla Council, the governor "alone arranged the Indians land" and did not allow the tribes to "speak" about the locations of their reservations. He told Stevens, "They who owned the land did not speak, and yet you divided their land." Because of this, Big Star argued, "[I]t is all your fault the Indians are at War. It is your fault because you have said that the Cayuse and Walla Wallas will be moved to the Yakima's land." Spokane Chief Garry agreed, telling the governor, "The Indians are not satisfied with the land you gave them." "If all those Indians had marked out their own Reservation, this trouble would not have happened," Garry continued, "If you could get their Reservations made a little larger, they would be pleased—this is my mind, but perhaps it is too late to do it."[189]

Stevens responded by claiming that the Indians had received "false reports and lies about what I said at the Walla Walla Council," telling them:

> I did not say I would move the Indians to the Nez Perce and Yakima Country without consulting them. I did not know where the Spokanes, Colvilles and Coeur d'Alenes would be moved to until I had consulted them, and they had given me their hearts about it.
>
> I did ask Garry at the Walla Walla Council whether his people would like to go to the Nez Perce Reservation. I had formed no plans as to where the Indians should be moved, without seeing them, and arranging it with them.
>
> . . . I said yesterday, I say now, the lands are yours. I cannot take, I shall not take your lands from you. Whatever is done about the land, will be done by you and I; talking and agreeing—both being satisfied.[190]

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[188] Doty, *Journal of Operations of Governor Isaac Ingalls Stevens*, 53, 57, USA-CDA00021163. Blockquote on page 57.

[189] Doty, *Journal of Operations of Governor Isaac Ingalls Stevens*, 58–59, 61–62, USA-CDA00021163.

[190] Doty, *Journal of Operations of Governor Isaac Ingalls Stevens*, 62–63, USA-CDA00021163.

The governor, though, remained "doubtful" that "this was a time to make arrangements" for reservations and land cessions with the Coeur d'Alene, Spokane, and Colville tribes. Recognizing that Stevens was "in a hurry," tribal leaders believed, too, that it would be better to enter treaty negotiations when the governor could "find time and see us" after establishing peaceful relations with the Yakamas and other tribes. As Garry aptly put it, "All these things we have been speaking of had better be tied together as they are, like a bundle of sticks." "[B]ecause you are in a hurry," Garry continued, "There is not time to talk of them."[191]

Stevens agreed, stating, "[W]e need more time to make a Treaty." Using the Coeur d'Alenes as an example, he noted that the Indians would need to "have their little Councils to see what all will agree upon," as well as selecting "Chiefs to represent them in a general Council where the questions about the land can be fully discussed and agreed upon." Continuing, the governor stated:

> All this requires time, and I think that what Garry has said is good. Take some other time when we are not in a hurry and can talk it all over and endeavor to agree.
>
> Now do not let your minds be troubled. I, your friend, say that your lands will not be taken from you.
>
> I will try and come to see you next year. Early in the year if possible.[192]

Despite their willingness to postpone treaty talks, the Coeur d'Alene, Spokane, and Colville leaders made it clear to Stevens that they would not approve of U.S. military forces entering their territory. Telling Stevens unequivocally to "keep the soldiers from coming here," Garry stated, "I would not like it if the troops should come to the junction of the Columbia and Snake Rivers . . . If the troops come over this way my family and people will not be able to get their roots, and will be troubled." Similarly, Spokane Chief Schlat-eal told the governor, "If the Whites do not cross the River, the Indians will all be pleased. . . . Then I will believe you have taken us for your friends, and will take you for my friend."[193]

Father Joseph Joset, who attended the 1855 Spokane Council at Stevens's request, indicated that the governor was unwilling to make any promises regarding U.S. soldiers' movements and, instead, "evaded the question." Joset also provided further details about the territory claimed by the tribes, into which they were adamantly opposed to any military incursions. Having spent a decade among the Coeur d'Alenes, Joset knew these lands well and understood their vital importance to the tribes in the region. Writing in the 1870s about his recollections of the 1855 Spokane Council, Joset provided the following summary of the negotiations. Joset's reminiscence not only showed the significance tribal people placed on their aboriginal territory but also reflected the ongoing importance of their traditional subsistence activities, such as gathering roots. He wrote:

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[191] Doty, *Journal of Operations of Governor Isaac Ingalls Stevens*, 63, 65, USA-CDA00021163.

[192] Doty, *Journal of Operations of Governor Isaac Ingalls Stevens*, 66, USA-CDA00021163.

[193] Doty, *Journal of Operations of Governor Isaac Ingalls Stevens*, 48, 55, USA-CDA00021163.

> Many speeches were exchanged; but all the chiefs were agreed in one point: they begged that the troops should not come across Lewis [Snake] River: "The territory between Lewis [Snake] and Spokane Rivers is our garden," they said: "it is there our women dig the roots on which we live; if the soldiers come into these parts, the women will not dare to go and we will be famined": of course the Gov'r. could promise no such thing: he evaded the question.[194]

Ultimately, Stevens was unable to keep the military out of Coeur d'Alene territory, and he failed to deliver on his promise to negotiate a treaty with the Tribe. The latter resulted in the Coeur d'Alenes being increasingly vulnerable to the encroachments of non-Indian settlers, emigrants, and miners during the ensuing decades. The former, meanwhile, became a precursor to the only war in which the Tribe engaged against the United States.[195]

The 1858 Northern Plateau War, the Mullan Road, and the Status of the Coeur d'Alene Indians, 1858-1865

The 1858 War and the Continued Importance of Traditional Subsistence Activities among the Coeur d'Alene Indians

By the autumn of 1856, the Yakama War had had "staggered to an inconclusive end" with the signing of an armistice at Walla Walla, which allowed "a fragile peace" to descend on the region. However, the fundamental discontent that had prompted the 1855–1856 war remained unresolved. According to Woodworth-Ney, several Yakama and Palouse bands "did not accept peace and tried to rally Native support among the Spokanes, Columbias, Colvilles, and Schitsu'umsh [Coeur d'Alenes]." As historian Jack Dozier noted, the 1856 peace accord "removed none of the causes of the war; settlers were still in the area, miners were traversing Indian lands and the Indian leaders who had incited the war were still free to spread their seeds of discontent." Nontreaty tribes such as the Coeur d'Alenes, who felt spurned by Stevens's broken promise to negotiate with them, were a particularly "receptive audience" to the discontented counsel of "[t]hese warring factions."[196]

While some of the younger Coeur d'Alene leaders such as Milkapsi and Andrew Seltice urged the Tribe to join the Palouse and Yakama bands who advocated for offensive strikes against non-Indians, the "cooler heads" of tribal elders Vincent, Zacharaiah, and Victor ultimately prevailed. By the spring of 1858, the Coeur d'Alenes had determined they would "fight only if invaded." Despite adopting this defensive posture in the protection of their aboriginal territory, events that occurred

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[194] Robert Ignatius Burns, "Pere Joset's Account of the Indian War of 1858," *Pacific Northwest Quarterly* 38 (October 1947): 286, 290–292, USA-CDA00001013.

[195] Woodworth-Ney, *Mapping Identity*, 56–57, USA-CDA00021719.

[196] Woodworth-Ney, *Mapping Identity*, 56, USA-CDA00021719; Jack Dozier, "The Coeur d'Alene Indians in the War of 1858," *Idaho Yesterdays* 5, no. 3 (Fall 1961): 23, USA-CDA00001397.

outside Coeur d'Alene country and well beyond the Tribe's control led them inexorably into the so-called Northern Plateau War of 1858.[197]

Early that year, news of Palouse raids on settlements in the Walla Walla valley and the killing of two miners "near Colville" had reached Lieutenant Colonel Edward Steptoe, stationed at Fort Walla Walla. In response, Steptoe prepared "three companies of dragoons" to proceed to the Colville valley, departing the fort on May 6, 1858. Perhaps because of his desire to arrest the Palouse Indians who were allegedly responsible for the recent raids and killings in the Walla Walla and Colville valleys, Steptoe led his men on a "puzzling, winding northeastern course" that led directly toward Coeur d'Alene territory.[198] Once the troops crossed the Palouse River, "where part of the Coeurs d'alene [w]ere digging roots," Father Joset reported that tribal members became increasingly upset about the soldiers' incursion into their lands:

> Think of the effect of it upon the yo[u]ng, who thought the[y] saw in the movements of the troops a confirmation of that word: they were pursued, without any provocation on their part.[199]

In accordance with the sentiments expressed during the December 1855 Spokane Council, as many as 1,000 Native warriors—including 200 Coeur d'Alenes and more than 300 Spokane, Yakama, and Palouse Indians—engaged Steptoe in a battle in mid-May 1858 to defend tribal territory. In early September, roughly 100 Coeur d'Alenes fought in two subsequent engagements with U.S. troops under the command of Colonel George Wright at what became known as the Battle of Four Lakes (at a site "ten miles west of Spokane Falls") and the Battle of Spokane Plains. Hostilities between the United States and the Coeur d'Alene Indians formally ended with the signing of a peace accord at the Cataldo Mission on September 17, 1858.[200]

The details of the battles during the 1858 Northern Plateau War are of limited value for this study, except insofar as they showed the willingness and ability of the Coeur d'Alenes to vigorously defend their traditional territory and the impact of their successful defense of their lands on federal policies in the ensuing decades. As historian William Compton Brown put it, during the meeting with the Coeur d'Alenes that led to the September 1858 peace treaty, Colonel Wright effectively "went down on his knees and begged the Coeur d'Alenes to come in out of the surrounding mountains and go through the formalities of making a surrender." The United States' recognition that the Tribe would forcefully and effectively defend its aboriginal territory not only impacted the

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[197] Dozier, "The Coeur d'Alene Indians in the War of 1858," 23, USA-CDA00001397; Woodworth-Ney, *Mapping Identity*, 59, USA-CDA00021719.

[198] Dozier, "The Coeur d'Alene Indians in the War of 1858," 24, USA-CDA00001397; Woodworth-Ney, *Mapping Identity*, 58–61, USA-CDA00021719.

[199] Burns, "Pere Joset's Account of the Indian War of 1858," 294–295, USA-CDA00001013.

[200] Woodworth-Ney, *Mapping Identity*, 62–68, USA-CDA00021719; Dozier, "The Coeur d'Alene Indians in the War of 1858," 26–32, USA-CDA00001397.

1858 peace accord, but also future federal relations with the Tribe with respect to their traditional lands and, ultimately, their 1873 reservation.[201]

Additionally, the information reported by observers and participants in the war provided insight into the ongoing importance of the Coeur d'Alenes' traditional subsistence activities. For example, as noted by Joset in his 1870s remembrance of the 1858 war, Steptoe's troops first encountered the Coeur d'Alenes at their camas digging grounds, where "almost all" of the Tribe was "off in the plains after roots."[202] Similarly, in a June 27, 1858, letter to his superior, Father Nicholas Congiato, Joset reported that, following the battle with Steptoe, the Coeur d'Alenes questioned why the officer had chosen the route he did, since it removed him "further from Colville" and directed his troops "upon the place where we were peaceably occupied in digging our roots."[203]

Notably, in the same letter, Father Joset also reminded his Jesuit superiors that, despite the growing influence of the Cataldo Mission on the Coeur d'Alenes, the priests' ability to direct the actions of the Tribe remained limited. He told Father Congiato, "Even among the Coeur d'Alenes there is a certain number that we never see, that I do not know in any manner. The majority mistrust me when I come to speak in favor of the Americans." Moreover, Joset indicated that Coeur d'Alene Chief Vincent's camp was located "about ninety miles" away from the Cataldo Mission, providing further evidence of the Tribe's continued occupation of village sites that were far removed from the Jesuit presence in their territory.[204]

Likewise, in an August 3, 1858, letter to General Newman S. Clarke, Fahter Congiato reported on the "scattered" location of the Coeur d'Alene bands, as well as noting the ongoing importance of fishing, hunting, and gathering roots and berries for the Tribe's subsistence. Congiato told General Clarke that, after arriving at the Cataldo Mission in mid-July 1858, it took him "over three weeks" before he was able to "see the Coeur d'Alenes and Spokane Indians." The reason, according to Congiato, was that tribal members "were scattered about in small parties, at great distances from each other, some fishing, others digging roots or gathering fruits, and making provision for winter."[205]

Joseph Seltice's account of this period—based on notes from oral narrations given by his father, Chief Andrew Seltice, prior to his death in 1902—provides further support for the continuing significance of both longtime village sites and traditional subsistence activities among the

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[201] William Compton Brown, *The Indian Side of the Story* (Spokane, WA: C. W. Hill Printing Co., 1961), 261, USA-CDA00000938.

[202] Burns, "Pere Joset's Account of the Indian War of 1858," 292, 294, USA-CDA00001013.

[203] Father Joset to Father Congiato, June 27, 1858, in Senate, *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 358, USA-CDA00003865.

[204] Father Joset to Father Congiato, June 27, 1858, in Senate, *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 354, 356, USA-CDA00003865.

[205] Father Congiato to General Clarke, August 3, 1858, in Senate, *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 372, USA-CDA00003865.

Coeur d'Alenes. Seltice wrote that the Indians "always had a good supply of meat and fish, and they had little to worry about during those winter days of 1856 and 1857." He further indicated that both the Coeur d'Alene and Clearwater River basins were "well stocked with elk, deer and fish." According to Seltice, "all the families" continued their seasonal rounds of huckleberry picking, camas digging, hunting, and fishing in the late 1850s, even as some tribal members began observing religious services at the Cataldo Mission, including "Christmas, Easter, Corpus Christi and the Assumption." At the conclusion of their "big fall hunts," Seltice reported that "[e]ach family" would load "seven or eight pack horses" with a supply of "dried elk, mule deer, and salmon" to sustain their families through the upcoming winter.[206]

Seltice's account also provided evidence of the wide geographical distribution of the Coeur d'Alene bands at the time of the 1858 war. He noted, for example, that "three or four progressive families" traveled to the mission "for days of obligation" but otherwise remained near their villages "along the Spokane River." Additionally, a tribal member named Deboos "lived mostly off the fish that were plentiful" near his home "at Colfax," while a woman named Wham-shen-mell—who was also "called 'Susan-pick-handle' by the early settlers"—resided at "the present town of Potlach." She became known both for her camas digging expertise and for the "large supply of fish that she caught in her nets." Discussing the dispersed locations of other tribal members' homes at the dawn of the 1858 Northern Plateau War, Seltice wrote:

> Twisted Earth had located his family at the head of the Spokane River, at the present city of Coeur d'Alene. Vincent was located at Hayden Lake, called Hentaken. Alexis was between Coeur d'Alene and Post Falls, and Moses Seltice lived at Post Falls. Quinmosee was at Spokane Bridge; and at Liberty Lake. Tecomtee was on the east side and Peter Wildshoe was located on the west side of the lake. Andrew Seltice was at Seltice Lake. Seemos and Andrew Yumas lived at Oakesdale; Deboos lived at Colfax, and Qualshalkin was at Rathdrum. Benwah lived at Benewah Lake. Anahee was a recluse and nobody dared bother him at his place on the forks of the St. Joe and St. Maries Rivers. Two families of Timothy's lived fifteen miles up the St. Joe River from the forks.[207]

In an 1859 report to U.S. military officials (written while he was serving as an army chaplain), Father De Smet also commented on the plentiful fish, game, roots, and berries that flourished throughout the Couer d'Alenes' aboriginal territory. Stating that the "Spokane prairie is claimed by the Coeur d'Alene Indians," De Smet noted that this area "abounds in nutritious roots, (bitter-root, camash, & c.,) on which the Indians principally subsist for a great portion of the year." De Smet identified Lake Coeur d'Alene as the "central point" of the Tribe's territory, noting that it also extended "fifty miles to every point of the compass" from the lake's shores. He further indicated that the "two beautiful rivers—the St. Joseph's and the Coeur d'Alene rivers—" that fed the lake

[206] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 9–10, 82–83, USA-CDA00001740.

[207] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 83–84, USA-CDA00001740.

also contained "narrow strips of land" along their borders, which boasted soils "of the richest mould."[208]

Although De Smet was impressed by the soils within the St. Joe and Coeur d'Alene River valleys, he expressed even greater admiration for the region's natural bounties, upon which the Indians still primarily subsisted. According to De Smet, "[c]amash prairies and other nutritious roots and berries" were abundant throughout the Coeur d'Alene country, and the surrounding forests were "well stocked with deer, with black and brown bears, and with a variety of the fur-bearing animals." Meanwhile, "[a]ll the rivers and rivulets" that flowed through the Tribe's traditional lands "abound wonderfully in mountain trout and other fish." Despite this natural bounty, however, De Smet believed that the area's "long winters" and "deep snows" would likely "retard the settlement of this country" by non-Indians.[209]

The Coeur d'Alene Peace Treaty of September 17, 1858

The vital importance of fishing, hunting, and gathering to the Coeur d'Alenes was further reflected in discussions between U.S. military officials and tribal leaders during the negotiation of the September 17, 1858, peace treaty. According to a lieutenant who served during the 1858 war, Colonel George Wright threatened the Indians during the negotiations by stating that the military could cut off tribal members' access to their traditional fishing, hunting, and gathering areas. Wright stated, "What can you do against us? I can place my soldiers on your plains, by your fishing-grounds, and in the mountains where you catch game, and your helpless families cannot run away."[210]

Two days before signing the Coeur d'Alene peace accord, Wright also reported on the "slaughter and devastation" that his troops had directed against tribal lands and resources while en route to the Cataldo Mission in mid-September. Wright remarked that, during his 80-mile march to the mission, his soldiers had "destroyed" several "caches of vegetables, kamas, and dried berries," along with "large quantities of wheat and oats." He further boasted of killing "900 horses and a large number of cattle," the former of which he had reportedly captured from "Pelouse chief Til-co-ax." Taken together, Wright claimed that this "devastation" had stuck "[a] blow" that the Indians "will never forget."[211]

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[208] P. J. De Smet, S.J., Chaplain, & c., United States Army, to Captain A. Pleasonton, Acting Assistant Adjutant General, May 28, 1859, in House, *Affairs in Oregon*, 36th Congress, 1st session, April 12, 1860, H. Ex. Doc. 65, Serial 1051, 147–148, USA-CDA00021277.

[209] De Smet to Pleasonton, in House, *Affairs in Oregon*, 36th Congress, 1st session, April 12, 1860, H. Ex. Doc. 65, Serial 1051, 148, USA-CDA00021277.

[210] Lawrence Kip, *Army Life on the Pacific: A Journal of the Expedition Against the Northern Indians, the Tribes of the Coeur d'Alenes, Spokans, and Pelouzes, in the Summer of 1858* (New York: Redfield, 1859), 84, USA-CDA00001738.

[211] G. Wright, Colonel, 9th Infantry, to Major W. W. Mackall, Assistant Adjutant General, September 15, 1858, in Senate, *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 396, USA-CDA00003865. For Wright's statement regarding the capture of horses from Palouse Chief Til-co-ax, see Wright to Mackall, September 10, 1858, in *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 395, USA-CDA00003865.

Colonel Wright adopted a similarly confrontational tone during the peace negotiations with the Coeur d'Alenes at the Cataldo Mission on September 17, 1858. He began by commanding the assembled tribal members to "surrender to me the men who commenced the attack on Lieutenant Colonel Steptoe," as well as delivering "*one* chief and *four* men with their families, as hostages, to be taken to Fort Walla Walla." In addition, Wright demanded that the Coeur d'Alenes return "all public or private property in their possession" and that they "allow all white persons to travel at all times through their country unmolested."[212] Historian William Compton Brown, however, argued that these provisions were "just so much 'buncomb' put in for effect and to make a better record for the expedition."[213]

The peace treaty signed by the Coeur d'Alenes on September 17, 1858, largely mirrored the terms outlined by Wright during the negotiations. The Tribe agreed to "surrender" both hostages and government property to Wright, as well as promising "that all white persons shall travel through their country unmolested." In return, the United States pledged not to harm Coeur d'Alene hostages and to return them to the Tribe "within one year." Moreover, Wright assured the Indians that "if the foregoing conditions are fully complied with no war shall be made upon the Coeur d'Alene nation." Finally, the parties agreed that, once the peace accord had been "fully complied with, a permanent treaty of peace and friendship shall be made."[214] Brown, meanwhile, viewed the treaty as "an admission" that Steptoe's attack was "contrary" to military orders and as reflecting the United States' recognition of the Coeur d'Alenes' ability and willingness to defend their aboriginal territory.[215]

Discussing the Coeur d'Alenes' response to the peace treaty four days after its signing, Wright told his military superiors:

> I have never witnessed such a unanimity of feeling nor such manifestations of joy as was expressed by the whole Coeur d'Alenes nation, men, women, and children at the conclusion of the treaty. *They know us, they have felt our power*, and I have full faith that henceforth the Coeur d'Alenes will be our staunch friends.[216]

Remarking on the Tribe's reportedly positive feelings toward his troops, Wright stated that, after negotiating the peace treaty, tribal members assisted his men with "Indian canoes" in crossing both the Coeur d'Alene and St. Joseph Rivers. The Coeur d'Alene River crossing was particularly difficult, as Wright noted, "It occupied most of the 19th in crossing the troops, animals, and stores, assisted

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[212] Wright to Mackall, September 21, 1858, in *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 397–398, USA-CDA00003865. Emphasis in original.

[213] Brown, *The Indian Side of the Story*, 261, USA-CDA00000938.

[214] "Preliminary Articles of a Treaty of Peace and Friendship Between the United States and the Coeur d'Alene Indians," September 17, 1858, in *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 408–409, USA-CDA00003865.

[215] Brown, *The Indian Side of the Story*, 261, USA-CDA00000938.

[216] Wright to Mackall, September 21, 1858, in *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 398, USA-CDA00003865. Emphasis in original.

by the Indians with their canoes."[217] Notably, Father Joset had likewise reported on the use of Indian canoes to shepherd "four white travelers" to safety after they were confined at the Cataldo Mission in the aftermath of the Steptoe battle in May 1858. Along with Wright's account, Joset's recollection provides further evidence of the Coeur d'Alenes' continued reliance on canoes as a primary mode of transportation through the 1850s.[218]

The Mullan Road and the Coeur d'Alene Indians, 1858-1865

As reflected in the terms of the 1858 Coeur d'Alene peace treaty, government officials remained intent on achieving Isaac Stevens's goal of securing viable transportation routes across the Pacific Northwest. In addition to seeking locations suitable for railroads, Stevens also directed members of his expeditionary force to investigate routes for a military wagon road that would connect Fort Benton (on the headwaters of the Missouri River in present-day Montana) to Fort Walla Walla on the Columbia River. Named after the military officer who headed these investigations, the Mullan Road was authorized by Congress in the "winter of 1857." Preliminary work on the route had commenced by the spring of 1858—just as the Northern Plateau War was beginning.[219]

Although it took Captain John Mullan's party until September 1862 to complete the Mullan Road, the anticipated route began impacting affairs in the Interior Northwest almost immediately after the commencement of construction activities. According to historian Jack Dozier, the Mullan Road was one of the warning signs identified by discontented Yakama and Palouse leaders to rally support from the Coeur d'Alenes, Spokanes, and other area tribes to engage in the 1858 war. Dozier wrote that Yakama Chief Kamiakan "used Mullan's presence" along the nascent road "to incite fear among the assembled tribes and as support for his contention that they would soon be invaded."[220] In his 1863 report to Congress, Mullan noted that the "open hostility" among tribes in the Interior Northwest caused him to halt construction work in May 1858. While construction was at a standstill, Mullan joined Colonel Wright's campaign against the Indians prior to the September 1858 peace treaties with the Coeur d'Alenes and Spokanes.[221]

Although his party investigated several alternative routes across the Bitterroot Mountains and through Coeur d'Alene territory, Mullan ultimately chose a path that crossed the mountains near present-day Lookout Pass, followed the Coeur d'Alene River past the Cataldo Mission, and headed

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[217] Wright to Mackall, September 21, 1858, in *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 398, USA-CDA00003865.

[218] Burns, "Pere Joset's Account of the Indian War of 1858," 298, USA-CDA00001013. For additional evidence of the use of canoes at the time of the 1858 war, see Father Joset to Father Congiato, June 27, 1858, in Senate, *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 356, USA-CDA00003865.

[219] Mullan, *Miners and Travelers' Guide*, 58, 62–63, USA-CDA00002219.

[220] Dozier, "The Coeur d'Alene Indians in the War of 1858," 23, USA-CDA00001397; Mullan, *Miners and Travelers' Guide*, 63, USA-CDA00002219.

[221] Mullan, *Report on the Construction of a Military Road*, 1, 9, USA-CDA00021293.

along the northern end of Lake Coeur d'Alene to the Spokane plains. Initially, Mullan intended the proposed road to "cut through the St. Joseph River valley" and circle the southern end of the lake. However, by 1861, the difficulty of "clearing thick underbrush" between the Coeur d'Alene and St. Joe River valleys, as well as annual flooding along the latter stream, persuaded Mullan to reroute the section along the lake. As Woodworth-Ney wrote, "The new route skirted the northern part of the lake and extended from the Coeur d'Alene tribal winter village, on the lake's north shore, to the Sacred Heart [Cataldo] Mission."[222]

Despite having agreed to allow non-Indians to travel freely through their territory under the 1858 peace treaty, the Coeur d'Alenes remained wary of Mullan's survey crews and showed concern about the impact of the new road. Although Mullan's party used Coeur d'Alene guides during their investigations, they also met significant opposition from several tribal members. For example, Gustavus Sohon reported that the Coeur d'Alene Indians he met in 1860 expressed fear that they would lose their lands if the wagon road passed through their territory. As a result, Sohon indicated that these tribal members attempted to "retard my movements" and "obstruct my passage through their country." After failing to secure the assistance of a Coeur d'Alene guide across the Bitterroot Range in February 1860, he concluded, "I satisfied myself of one thing: the extreme aversion that the Indians have against any wagon road passing through their country."[223]

Mullan also was concerned about the road's future impact on the Coeur d'Alenes and the Cataldo Mission. Although the Jesuits' work among the Coeur d'Alene Indians had won his "highest admiration," Mullan considered the anticipated negative influence of the new road to be simply "the inevitable result of opening and settling the country." Despite claiming that "the exertions of these Catholic missionaries" had resulted in the "only good" ever done for the Indians, Mullan argued that the site of the Cataldo Mission would "have to be changed or abandoned." Meanwhile, the Coeur d'Alenes, whom Mullan believed were "destined to disappear before the white man," would need to be "removed far, far" from white settlements and emigration. Perhaps because of the anticipated impact of his wagon road, Mullan contended that the Coeur d'Alene Indians should be "moved to the Flathead reservation." Assessing the road's likely impact in Coeur d'Alene country, he wrote:

> I fear that the location of our road, and the swarms of miners and emigrants that must pass here year after year, will so militate against the best interests of the mission that its present site [at Cataldo] will have to be changed or abandoned. This, for themselves and the Indians, is to be regretted; but I can only regard it as the inevitable result of opening and settling the country.[224]

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[222] Woodworth-Ney, *Mapping Identity*, 77, USA-CDA00021719.

[223] G. Sohon, Guide and Interpreter, to Lieut. John Mullan, February 15, 1860, in Mullan, *Report on the Construction of a Military Road*, 95, 97, 99–100, USA-CDA00021293. For Mullan's observations regarding Coeur d'Alene opposition to the Mullan Road, see pages 5, 11, 15.

[224] Mullan, *Report on the Construction of a Military Road*, 49, 51–52, USA-CDA00021293. Blockquote appears on page 52. Note that the proposed removal of the Coeur d'Alenes to the Flathead Reservation in Montana had been suggested as early as 1855. See, for example, R. H. Lansdale, Ind. Agent, to I. I. Stevens, Supt. Ind. Affairs, W.T., October 2, 1855,

... continued on next page

In addition to discussing the likely negative influence of the new road, Mullan's report to Congress—along with his 1865 guidebook—provided lawmakers and prospective travelers information about the Coeur d'Alene Indians and other tribes whose territory was traversed by the wagon route. As with Stevens a decade earlier, Mullan was impressed by the Coeur d'Alenes' farming endeavors. He claimed that the Jesuits at the Cataldo Mission had not only taught tribal members to "worship God" but also had directed "every attention" to instructing the Indians "to till the soil." As a result, the mission boasted "a body of five or six square miles of most beautiful soil," where tribal members had placed "several hundred acres" under cultivation and were raising "[o]ats, barley, wheat, peas, and potatoes . . . in rich abundance."[225] Furthermore, Mullan reported that Andrew Seltice had "several acres under cultivation" in the Spokane valley near historic Seltice Lake, while others had "small farms enclosed" along the Spokane River.[226]

While he lauded the Coeur d'Alenes' agricultural activities, Mullan also recognized that those tribal members who farmed derived only a portion of their sustenance from agriculture. Others, meanwhile, continued to subsist entirely by fishing, hunting, and gathering. As such, Mullan reported to Congress that the Coeur d'Alene Indians "live by hunting, fishing, and cultivating the soil." Moreover, he indicated that, while some tribal members had begun residing "at the mission," many others remained in their traditional village sites "along the Coeur d'Alene and St. Joseph's rivers."[227]

Of particular note regarding Coeur d'Alene hunting was Topographical Engineer P. M. Engel's March 16, 1860, report to Mullan, in which he recounted witnessing a tribal member use fire as a means of facilitating deer hunting in the Bitterroot Mountains. Engel wrote that his Indian guide "set fire to the woods" to burn "a certain kind of long moss which is a parasite to the pine trees in this region." "By burning the moss," Engel wrote, "the deer, in winter, are obliged to descend into the valleys for food, and thus they [the Indians] have a chance to kill them." Other members of the survey crew also mentioned encounters with Coeur d'Alene hunting parties, and Mullan himself stated that the "grand and picturesque" St. Joe River valley formed a "beautiful" scene that was often "enlivened" by seeing "here a camp of hunters and there the light bark canoe of the Indian."[228] (See Figure 5.)

Mullan and his survey party likewise remarked on the profusion of fish in the lakes, rivers, and waterways within Coeur d'Alene country. Mullan, for example, noted that Lake Coeur d'Alene was "filled with an abundance of delicious salmon trout" and that the Spokane River—the lake's

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Roll 5, National Archives Microfilm Publication T494: *Documents Relating to the Negotiation of Ratified and Unratified Treaties with Various Indian Tribes, 1801–1869* [hereinafter cited as T494], USA-CDA00021150.

[225] Mullan, *Miners and Travelers' Guide*, 23, 33, USA-CDA00002219.

[226] Mullan, *Report on the Construction of a Military Road*, 30, 42, USA-CDA00021293.

[227] Mullan, *Report on the Construction of a Military Road*, 49, USA-CDA00021293.

[228] Mullan, *Report on the Construction of a Military Road*, 16, 99, 106, USA-CDA00021293.

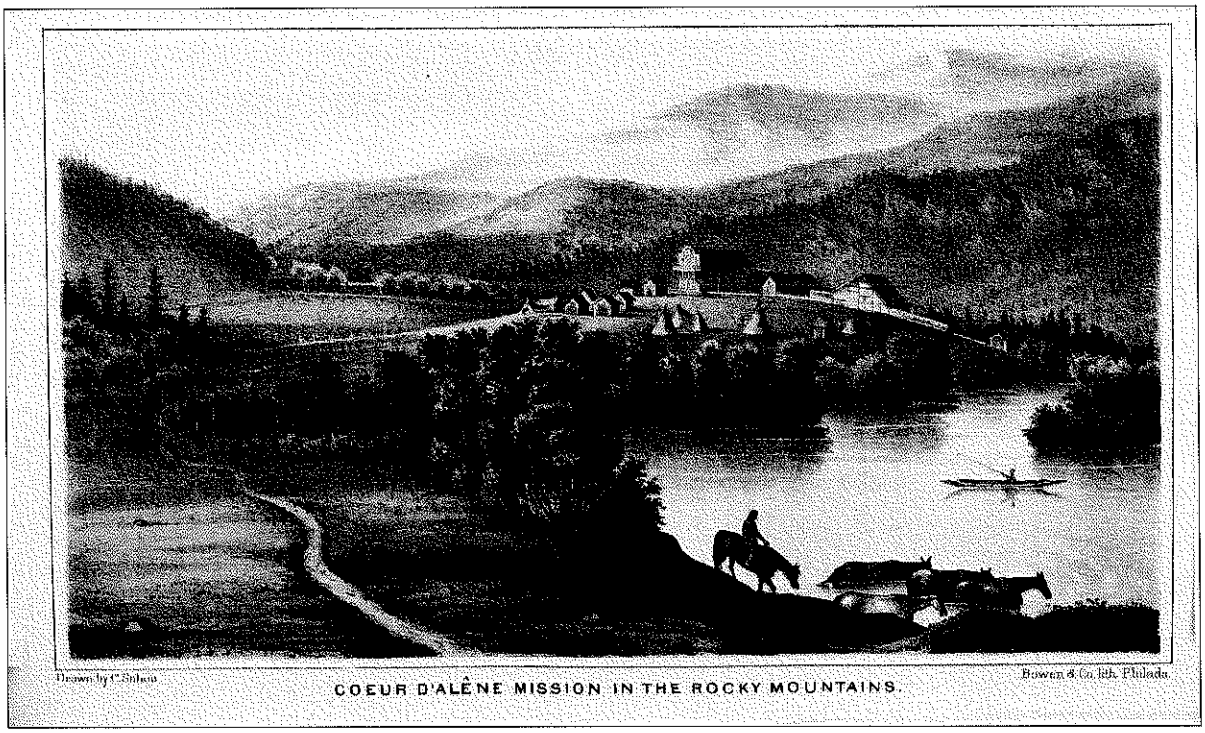

Figure 5. "Coeur d'Alene Mission in the Rocky Mountains."
Source: Mullan, *Report on the Construction of a Military Road*, 17, USA-CDA00021293.

outlet—provided "an abundant supply" of salmon for Indian families living along its banks. Even Andrew Seltice, who had "several acres under cultivation," also relied extensively on fishing and hunting to support his life as "an independent chief." Additionally, Topographer Theodore Kolecki wrote that the "Spokane fishery" near the confluence of Latah (Hangman) Creek and the Spokane River was "an establishment of the greatest importance to the Indians, as the great quantity of salmon caught there with but little trouble forms the principal portion of their food." While the Coeur d'Alenes had "a few" lodges at this fishery, the site was likewise used and occupied by other area tribes, including the Spokane, Pend Oreille, and Colville Indians.[229]

Mullan's report to Congress also reflected the ongoing importance of other traditional subsistence activities among the Coeur d'Alenes, such as digging camas, picking berries, and traveling via canoes. On numerous occasions, Mullan and his survey crew reported meetings with Coeur d'Alene tribal members at their "camass prairies" or noted the Indians being "absent at the camass grounds." The report further showed the importance of berry picking as a part of the Tribe's seasonal subsistence cycle. Engel, for example, called a stretch of the St. Joe River that he examined in March 1860 "the richest berry region in the mountains," noting that the Coeur d'Alenes "visit it regularly towards the end of July and the commencement of August." Engel and others in Mullan's

[229] Mullan, *Report on the Construction of a Military Road*, 17, 30, 111, USA-CDA00021293.

party also noted the use of "bark canoes" by their Coeur d'Alene guides—a fact that is similarly reflected in Gustavus Sohon's painting of the Cataldo Mission that accompanied Mullan's report to Congress. Finally, the survey crew encountered several Coeur d'Alene village sites along area waterways, as well as a tribal "burial ground" along the Spokane River.[230]

Chief Joseph Seltice, in his manuscript describing the tribal perspective on events during this period, likewise noted the Tribe's continued reliance on traditional subsistence activities during the 1860s. The Seltice account indicates that the Coeur d'Alenes quickly settled back into their seasonal cycle of spring camas digging, summer berry picking, fall hunting, and year-round fishing following the 1858 peace treaty. That autumn, according to Seltice, tribal members "packed their horses" for their customary hunting and fishing locations near the Coeur d'Alene River's headwaters, in the Clearwater Mountains, and at other sites such as Old Grizzly Mountain, the Marble Mountains, and Pool Mountain, where "elk licks drew continuous herds of elk day and night." Tribal members returned to their homes prior to the winter of 1859 "with a full supply of meat, fish and berries for their families."[231]

Recounting the Tribe's fall hunting and fishing activities in 1864 and 1865, Seltice similarly noted that Coeur d'Alene families journeyed to their usual and accustomed locations in the Coeur d'Alene, Bitterroot, and Clearwater Mountains, as well as to Old Grizzly Mountain and the "head of the Coeur d'Alene River." Seltice provided the names of individual families who traveled to specific locations within Coeur d'Alene territory that autumn, listing nearly thirty heads of families who led this seasonal trek into the mountains. As they had done for millennia, the families returned to their villages "happy" and carrying "a full supply of dried and smoked meat and fish," including "elk, deer, bear, beaver, salmon and mountain trout."[232]

In addition to continuing their seasonal patterns of hunting, fishing, and gathering, Seltice also noted that tribal members had begun farming by the early 1860s. In the spring of 1860, some tribal members planted "gardens of corn and potatoes," as well as raising wheat and oats. According to Seltice, however, Coeur d'Alene farming remained very limited. He stated that those tribal members who engaged in agriculture "had small fields, of no more than an acre or two." Even after some individuals obtained oxen in the 1860s, this still allowed these tribal members to merely "work wheat fields as large as three acres." Since two- and three-acre fields were not sufficient to sustain an entire family, the Coeur d'Alenes who farmed incorporated these agricultural activities into their broader subsistence patterns. As Seltice wrote, "all" tribal members who "were eagerly pursuing a life of ranching and farming" still "went on the hunt in the fall, when they had finished their work."[233]

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[230] Mullan, *Report on the Construction of a Military Road*, 5, 13, 16, 30, 96–99, 105–106, USA-CDA00021293.

[231] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 9–10, 151–155, USA-CDA00001740.

[232] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 189–191, 202–203, USA-CDA00001740.

[233] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 158–161, 179, USA-CDA00001740.

Likewise, tribal members who adopted Christianity and participated in religious observances at the Cataldo Mission did so within a broader framework that included seasonal travels to usual and accustomed places to fish, hunt, dig camas, and pick berries. Discussing tribal members' "annual pilgrimage to the Mission" for Easter services in the early 1860s, Seltice stated that families would travel great distances from their homes located throughout Coeur d'Alene territory, including sites along the St. Joe River, the headwaters of the Spokane River (present-day city of Coeur d'Alene), the Spokane valley, Liberty Lake, Hayden Lake, Chatcolet, "Che-mi-wies," and the Palouse. After this spring "pilgrimage" to the mission, these Christianized Coeur d'Alenes would return to their homes for "farm work," then depart again in late spring to engage in their seasonal subsistence cycle of root digging, berry picking, hunting, and fishing. For example, in 1862, Seltice indicated that Catholic tribal members engaged in the following post-Easter seasonal rounds:

> Everyone returned home again after the games [held the day after Easter] to begin their farm work and later to dig bitterroots and camas. After huckleberrying, they returned to the Mission again for August 15, and then spread out for their annual fall hunt. The winter was spent in peace, with plenty to eat for everyone.[234]

The Catholic members of the Tribe also traveled from their geographically dispersed village sites to the mission for Christmas services. Describing one such journey in the late 1860s, Seltice stated that families living along the Spokane River embarked on this wintertime excursion in "ten canoes," paddling across Lake Coeur d'Alene from its "western shore to the mouth of the Coeur d'Alene River." Along the way, these families met other tribal members from the Palouse who also traveled by canoe once they reached the southern tip of the lake near Chatcolet. Three additional families who lived along the St. Joe River joined the expedition, by which time "twenty canoes filled with men, women and children" paddled together "joyfully" upstream along the Coeur d'Alene River "en route to the Mission for Christmas services." After the Christmas service, the families guided their canoes "down the river bank and were homeward bound," taking two days to paddle to modern Coeur d'Alene, a "full day" to "the site of the first mission," and half a day to "Che-mee-wees."[235]

Despite the inclusion of Catholic religious observances into the seasonal subsistence patterns of some Coeur d'Alenes during the 1860s, Seltice indicated that other tribal members "did not attend the Christian services" and "were considered by some to be outlaws." Among these were the Timothy brothers, whose families lived "some five miles above the head of navigation on the St. Joe River," and Anahee, "who lived at Hen-chem-sin, now called St. Maries" and reportedly "didn't even mix with the Timothys who lived fifteen miles upriver." Seltice further noted that other Coeur d'Alene families—possibly also non-Catholic tribal members—"could not be persuaded to turn to the arts of farming" and, instead, "preferred hunting for a living." Reflecting his pro-Catholic and

[234] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 171–174, USA-CDA00001740.

[235] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 224–228, USA-CDA00001740.

pro-agricultural views, Seltice claimed that these Coeur d'Alenes represented an "idle class" who "wasted their time roaming the country side and killing game throughout the whole year."[236]

Regardless of the Catholic or non-Catholic beliefs of individual Coeur d'Alene families, Seltice's account clearly indicates that tribal members continued to live in a widely dispersed geographical area that encompassed all of Coeur d'Alene territory through the 1860s. Moreover, as shown above, even those families who engaged in agriculture did not abandon their traditional subsistence patterns, nor did they relinquish their reliance on the seasonal migrations that supported such activities. For example, Seltice's description of the Catholic Coeur d'Alenes' arrival to their homes after the 1863 Easter service at the mission reflected tribal members' widespread geographical distribution throughout their aboriginal territory. Seltice wrote:

> All the big families arrived home safely: four families on the shores of Lake Coeur d'Alene, two families at Hayden Lake, some four families on the south side of the Spokane River and three families along the north side, one family at the crossing, now called Spokane Bridge, two families at Liberty Lake, one at Seltice Lake, one family at Rathdrum, one family at Spangle, two families at Oakesdale, one family at Colfax, two families at Potlatch, two families around DeSmet, one family at Benewah Lake, two families some four miles south of Plummer, one at Plummer, and a few families at Che-mee-wes in the St. Joe River Valley.[237]

Father Joset's Palouse Valley Relocation Proposal, 1863-1865

Notably, at the 1863 Easter service, Father Joseph Joset first encouraged the Coeur d'Alenes to consider moving their homes to the Palouse valley. Although Joset recognized that tribal members had "good homes along the river or at the edge of the lake"—as well as "good locations along the Spokane River, at Liberty Lake and at Hayden Lake"—he believed the Palouse valley included "the best land around here." Claiming that non-Indian settlers would flood into the Pacific Northwest after the conclusion of the Civil War, Joset argued that the Indians should protect the Palouse from encroachment and could do so by settling there and cultivating lands. He told the Coeur d'Alenes:

> When the war is over, President Abraham Lincoln will want the entire Northwest settled by whites. The settlers will come by the thousands, right here into your country. They will lay claim on whatever land they want.
>
> What I really want to say is that all you Coeur d'Alenes should take up the best land around here. And that best land is in the Palouse Valley where you can really raise grain. Wherever your homes are then, you can be sure that no one will claim your land. Settle in the Palouse Valley for life.[238]

Joset's proposal met with significant resistance from tribal leaders. Chief Vincent questioned the priest's motives, stating, "This is one time I can't agree with you. After years of building our homes, of work clearing land for the welfare of our children, now you ask us to leave. . . . Are you really here for our welfare, or do you just want this entire valley for yourself?" Andrew Seltice agreed,

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[236] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 173, 179, 197, USA-CDA00001740.

[237] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 178–179, USA-CDA00001740.

[238] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 175, USA-CDA00001740.

telling Joset, "Unless you give us some very good reasons, we won't even think of leaving our homes after all these years of work." Both Peter Wildshoe and Quee-quee-schoo added their voices in response to Joset's "disturbing remarks," with Wildshoe emphatically stating, "I will not budge an inch!" Quee-quee-schoo, meanwhile, gave a moving speech opposing the proposed relocation that reflected the ongoing importance of the Tribe's seasonal subsistence cycles:

> White-head, you know I have lived here all my life. My winter quarters are there in the trees where wood is plentiful. Game is also plentiful there throughout the winter. In the summer my quarters are down on the river bank, where the river current forms whirling pools and the fish are plentiful.
>
> Your field is already large and well fenced. My field is also fenced, but it's only a small one. Now you are asking all of us to leave so you can enlarge your field even more, and then fence it with our rails. Unless you have a really good reason, as Seltice said, it isn't right to have to move out just to make room for someone else.[239]

By 1865, some tribal members, including the newly elected Head Chief Andrew Seltice, had softened their views regarding the proposed move to the Palouse valley. Discussing the pros and cons of Joset's proposal, Seltice noted that the Palouse soils—unlike those of the Spokane valley—contained "no gravel nor rocks at all." The agricultural potential of the Palouse, though, was not the only factor that enticed Seltice. He also indicated that the region's northern tier contained "a full running creek through the valley that has salmon runs, enriching it beyond comparison." Joset agreed that the ability to continue fishing would be an important incentive to tribal members. He suggested to his parishioners, "With a beautiful running creek flowing through the valley and stocked with salmon, what more do we want?"[240]

As a further inducement, Joset promised the Coeur d'Alenes that if they moved to the Palouse valley, the priests and the mission would relocate, too. He promised them, "When you all move, I will also move." Moreover, he assured them, "[W]e can build another Church, probably even a better one," stating that "God will be with us in building another Church." However, for Joset, the primary reason to consider relocating remained the ability to protect the Palouse valley from non-Indian encroachment. He stated:

> The war in the east is about over. Settlers will soon pour into this country, just as the salmon pour into this creek. They will take one look at your present locations here, stick up their noses, and keep going on to the Palouse country where they can make a better living.
>
> So it is best for us to locate there quickly. The whites will make a dash for the Palouse Valley; but if you are there first, no one can order you off your land that you have already settled.[241]

Despite some Coeur d'Alenes' lessening resistance to the proposed move, many other tribal members remained steadfastly opposed to relinquishing their long-held village sites. According to

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[239] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 176–178, USA-CDA00001740. Note that some tribal members referred to Father Joset as "White-head."

[240] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 183–185, 202, USA-CDA00001740.

[241] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 185–186, USA-CDA00001740.

Joseph Seltice, the aforementioned Timothy brothers and Anahee were among those who "had no intention of moving." He also noted that the families of "Leo Sucota, Louis Too-too, and his brother, Louis Sebastian"—who had "taken over the vacant cabins at the first mission site on the St. Joe River"—also refused to relocate to the Palouse valley. Finally, Seltice indicated that several families who lived near the Cataldo Mission "didn't think it would be worthwhile" to move, since they "still preferred the easy life of hunting and fishing for a living." According to Seltice, the families opposed to relocating simply "pointed to the mountains, valleys and rivers and said":

> If we move to the Palouse country, how could the game, berries and fish ever be replaced out in that country? Ground squirrels are about all you have there. Should we give up this paradise, for hard work, trouble and hunger? We only have just one life here; why should anyone try to ruin this life? We will oppose anyone who tries to make us move. Give us a moderate and a regular life, and we will live longer.[242]

The Seltice account further showed that even those tribal members who considered moving to the Palouse valley believed the relocation could not occur "for a number of years." Stating that it took him "all of five years to replace the house, barn and shed that Colonel Wright burned down," Peter Wildshoe anticipated that it would take at least "the same amount of time" to break ground and build new homes in the Palouse country. Because of this, he argued, "[W]e should leave our stock here in the valley for a number of years, until we have completed our new homes and have plowed new ground to raise hay for our stock." Andrew Seltice proposed a similarly gradual approach, stating that he planned to "visit the Palouse Valley often in my spare time after spring work and start building a house and a barn." Only after he finished his "new house" and was able to "break up a number of acres for my field" would he feel prepared to "be able to move."[243]

As noted by Coeur d'Alene leaders during their mid-1860s discussions with Joset, the move to the Palouse valley would not occur immediately, nor would it include all tribal members. According to Woodworth-Ney, the earliest relocations to the Palouse valley occurred between 1870 and 1875. By the latter date, she indicated "a sizeable number of tribal members had relocated to the Palouse." Meanwhile, the Jesuits did not move to the Palouse until 1877, establishing a new church at DeSmet to replace the Cataldo Mission. By this time, the federal government had finally established a reservation for the Coeur d'Alene Indians—one that, by 1873, encompassed both the northern Palouse region and much of the area that encompassed the Tribe's traditional village sites along the Coeur d'Alene, Spokane, and St. Joe Rivers, as well as the entirety of Lake Coeur d'Alene.[244]

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[242] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 186–187, 235, USA-CDA00001740.

[243] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 187–189, USA-CDA00001740.

[244] Woodworth-Ney, *Mapping Identity*, 88–89, 101, USA-CDA00021719; Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 235–237, USA-CDA00001740.

Conclusion

Isaac Stevens's failure to negotiate a promised treaty with the Coeur d'Alene Indians in 1855 left tribal members and their aboriginal territory susceptible to encroachment by non-Indian settlement and emigration. When military officials in 1858 proceeded into Coeur d'Alene country, tribal members defended their camas grounds, fishing areas, hunting locations, and village sites from the threat posed by the U.S. army entering their lands. After signing a peace treaty in September 1858 that ensured the passage of non-Indian travelers across their lands, the Coeur d'Alenes faced yet another threat to their aboriginal territory—the Mullan Road. Meanwhile, Coeur d'Alene families continued to rely on their traditional subsistence activities and associated seasonal migrations, while some tribal members incorporated small-scale agriculture and Catholic religious observances into these broader subsistence patterns.

Although the newly established Mullan Road did not immediately bring a flood of settlers into northern Idaho, its presence represented a harbinger of things to come. Because of the anticipated impacts of the Mullan Road and the future settlement of the Interior Northwest, Father Joset encouraged the Coeur d'Alenes to relocate to the Palouse valley to protect tribal interests in those lands. Although nearly all tribal members vehemently resisted this move in the mid-1860s, some Coeur d'Alenes—including Head Chief Andrew Seltice—ultimately agreed to Joset's proposal, with many families relocating to the Palouse area by 1875. Two years later, the Jesuits followed suit, abandoning the Cataldo Mission in favor of a new church at DeSmet, Idaho. By that time, President Ulysses Grant had signed an executive order creating a reservation for the Coeur d'Alene Indians that encompassed not only some of their traditional lands in the Palouse valley, but also portions of the major waterways within their aboriginal territory, including Lake Coeur d'Alene and the Coeur d'Alene, Spokane, and St. Joe Rivers.

4. Establishing the Coeur d'Alene Indian Reservation, 1867-1873

The Executive Order of June 14, 1867

During the decade following Isaac Stevens's 1855 councils with the Coeur d'Alenes, tribal members continued to engage in traditional subsistence practices, including hunting, fishing, and gathering, as well as occupying their long-held village sites along the numerous waterways within their aboriginal territory. Lacking a treaty with the federal government, the Tribe did not benefit from the relative protection against non-Indian encroachment afforded by established reservation boundaries. However, Stevens's failure to negotiate with the Coeur d'Alenes also meant that they had not relinquished aboriginal title to the lands, rivers, and waterways they had used and occupied for millennia. Recognizing this, in the mid-1860s, federal officials renewed their efforts to negotiate an agreement with tribal leaders that would provide for the establishment of a reservation and the relinquishment of a portion of the Tribe's traditional territory.[245]

In his annual report for 1865, Idaho Superintendent of Indian Affairs Caleb Lyon—who also served as governor of the recently created territory—urged the establishment of both an agency and a reservation in Coeur d'Alene country. Regarding the former, he remarked favorably on the influence of the Cataldo Mission, suggesting that the "energetic fathers" could head the proposed new agency. Lyon further contended that the reservation should be located "immediately around the mission of Coeur D'Alene" and would contain "some hundred thousand acres." Although Lyon did not specify boundary lines, his proposed reservation would have included lands along the Coeur d'Alene River, likely stretching westward from the mission to Lake Coeur d'Alene. According to Lyon, creating such a reservation through a treaty would result in "the extinguishment of the Indian title" to an estimated "two million acres" outside the proposed reservation, which contained "the finest grazing land in the world, with mountains abounding in the precious metals."[246]

In September 1865, the Indian Office authorized Lyon to hold a council with the Coeur d'Alenes and other northern Idaho tribes "to obtain information in regard to those Indians, preliminary to a treaty with them." First, however, the commissioner instructed Lyon to meet with the Shoshone and Bannock Indians in southern Idaho to establish a "permanent peace" with them and to create "a permanent reservation" that included both their "fisheries" and the "Great Kammas

[245] Woodworth-Ney, *Mapping Identity*, 80–85, USA-CDA00021719.

[246] Caleb Lyon, Governor and Ex-Officio Sup't Indian Affairs, Idaho, to James Harlan, Secretary of the Interior, September 20, 1865, in ARCIA 1865, 233–234, USA-CDA00021350.

prairie."[247] According to Woodworth-Ney, the treaties negotiated by Lyon in southern Idaho "proved so unpopular" that he required "a military escort to avoid violence or death" after their signing. By April 1866, the governor had "fled the territory," taking with him not only Idaho treasury funds but also "his hopes for negotiations with nontreaty tribes," including the Coeur d'Alenes.[248]

Because of questions about Lyon's actions while in office, Commissioner of Indian Affairs D. N. Cooley did not submit the disgraced governor's proposed treaty with the Shoshone and Bannock tribes to the Senate. Meanwhile, Cooley reported that Lyon's failure to meet with the northern Idaho Indians in the wake of his unpopular southern Idaho treaty rendered future negotiations with the Coeur d'Alenes and other area tribes "imperatively necessary." Cooley wrote in his 1866 annual report that such "measures should be taken at an early day," stating that a proposal was then "under consideration" to create either "a new reservation in northern Idaho" for the "various kindred bands in that locality and the eastern part of Washington Territory" or to remove those tribes to "the Flathead reservation in Montana."[249]

By October 1866, Cooley had dismissed the proposition of moving the northern Idaho tribes to the Flathead Indian Reservation. Instead, he told Secretary of the Interior O. H. Browning that "a satisfactory arrangement with the various tribes in eastern Washington and northern Idaho" could more likely "be accomplished by setting off for them a reasonable reservation in the country now occupied by the Coeur d'Alenes."[250] Cooley based this decision on information received from several officials, including Montana Territorial Governor Thomas Meagher and Nez Perce Agent James O'Neill, with O'Neill telling him "that it would be unwise to attempt to locate either the Spokanes or the Coeur d'Alenes upon the Flathead reservation." Neither tribe, according to Cooley's informants, was amenable to leaving "their own country" to "unite with the Flatheads."[251]

With the proposed removal of the Coeur d'Alenes to the Flathead Reservation no longer under consideration, David Ballard, who succeeded Lyon as Idaho's territorial governor, was charged with addressing the Tribe's still-unsettled land status. Like his predecessor, Ballard knew little about the Coeur d'Alene Indians, having never met with tribal members and having gained information about them solely through "correspondence with parties who have travelled among them." Despite his dearth of personal knowledge about the Coeur d'Alenes, Ballard included in his September 1866 report to Cooley a proposal to create a reservation for them and other northern Idaho tribes.

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[247] R. B. Van Valkenburgh, Acting Commissioner of Indian Affairs, to Caleb Lyon, September 22, 1865, in ARCIA 1865, 235, USA-CDA00021356.

[248] Woodworth-Ney, *Mapping Identity*, 81, USA-CDA00021719; David W. Ballard, Governor and Superintendent of Indian Affairs, Idaho Territory, to D. N. Cooley, Commissioner of Indian Affairs, September 4, 1866, in ARCIA 1866, 190, USA-CDA00004090.

[249] D. N. Cooley, Commissioner of Indian Affairs, to O. H. Browning, Secretary of the Interior, October 22, 1866, in ARCIA 1866, 13, 15, USA-CDA00021359.

[250] Cooley to Browning, October 22, 1866, in ARCIA 1866, 39, USA-CDA00021359.

[251] Ballard to Cooley, September 4, 1866, in ARCIA 1866, 192, USA-CDA00004090.

Ballard's proposed reservation was located in the southern tier of the Coeur d'Alene Indians' traditional territory, near their camas grounds in Hangman Creek valley. He told Cooley:

> There is in the bounds of their own country, at the head of the Latch [Latah] or Hangman's creek, a fine location for a reservation, on which might be collected all the tribes of northern Idaho, including the Spokanes, Pend d'Oreilles, Coeur d'Alenes, and Kootenays. The location referred to is a beautiful valley some twenty miles in length, and comprises in that length fine farming lands, kammas grounds, grazing grounds, good location for saw-mill, with fine quality of timber adjoining, and is accessible from Lewistown and other points below, from Snake river, by good wagon roads.[252]

Ballard reported further on this proposal after receiving a follow-up report from Agent O'Neill in November 1866. According to O'Neill, a reservation roughly "20 miles square" with an agency located at "the head of the La-toh or Hangmans creek" would be "of suitable size" for the northern Idaho tribes. O'Neill added that the proposed reservation would include "agricultural & grazing lands, with hunting, fishing, berries & roots, & suitable locations for mills & c.," while the anticipated agency would be readily accessible "by a good wagon road" from both Lewiston, Idaho, and the Nez Perce Agency. He included "a sketch" map, showing the following suggested boundary lines:

> Commencing at the head of the Latoh about Six miles above the crossing on the Lewiston trail or road to the Spokane Bridge thence running N–N Easterly to the St. Joseph river[,] the site of the old Coeur De Alene Mission—thence west to the boundary line of Washington & Idaho territory—thence South to a point due west of the place of beginning thence east to place of beginning.[253]

Commissioner of Indian Affairs Nathaniel Taylor submitted O'Neill's and Ballard's reports to Secretary Browning in the spring of 1867 and recommended executive action to create the proposed reservation. Reporting on this plan in June 1867, General Land Office (GLO) Commissioner Joseph Wilson indicated that GLO officials had not surveyed lands in northern Idaho and that "the extinguishment of Indian titles" in the region had not yet occurred. Despite this, Wilson had "no objection" to Taylor's proposal that President Andrew Johnson establish "home reservations" for the Coeur d'Alenes in northern Idaho and the "Boise and Bruneau bands of Shoshones" in southern Idaho. Wilson used nearly identical language as that written by O'Neill to describe the boundaries of the proposed reservation for "[t]he Coeur d'Alenes and other tribes of northern Idaho." On June 14, 1867, President Johnson formally approved these boundaries, setting the lands apart "for the Indians" as the Coeur d'Alene Indian Reservation.[254] (See Figure 6.)

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[252] Ballard to Cooley, September 4, 1866, in ARCIA 1866, 190, 192, USA-CDA00004090.

[253] James O'Neill, Agent, Nez Perce Agency, to D. W. Ballard, Gov. & Supt. Ind. Aff., Idaho, November 10, 1866, I-753, Roll 337, M234, frames 603–605, USA-CDA00021370.

[254] Executive Order of June 14, 1867; N. G. Taylor, Commissioner of Indian Affairs, to O. H. Browning, Secretary of the Interior, May 23, 1867; Jos. S. Wilson, General Land Office Commissioner, to W. T. Otto, Acting Secretary of the Interior, June 6, 1867; Otto to the President, June 13, 1867; all in Charles J. Kappler, ed., *Indian Affairs: Laws and Treaties*, vol. 1 (Washington, D.C.: GPO, 1904), 835–837, USA-CDA00001713.

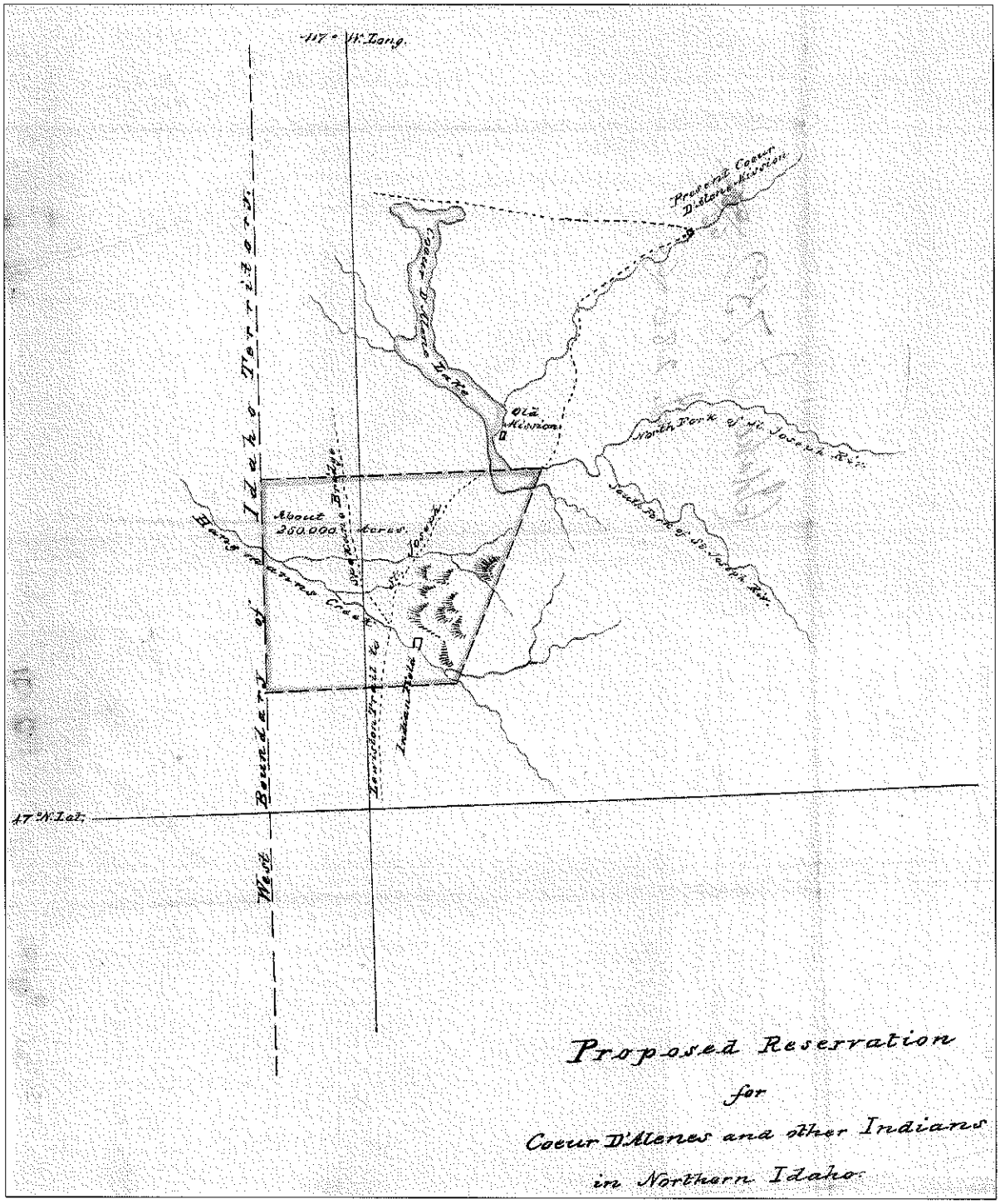

Figure 6. Map of "Proposed Reservation for Coeur d'Alene and Other Indians in Northern Idaho," 1867.
Source: Map CA-103, Entry 110, RG 75, Cartographic Records, NARA II.

Exhibit 1 to Affidavit of Ian Smith

Despite the reservation's initial establishment in 1867, historians have found that tribal members were not informed of its creation for several years and continued to reside in their long-held village sites, subsisting largely according to their traditional lifeways, irrespective of the newly established reservation boundaries. According to Woodworth-Ney, Interior Department officials "did not inform the Coeur d'Alene people of their new reservation, and no plans to force tribal members to live within its confines surfaced." Moreover, she argued that the Coeur d'Alenes "would certainly have rejected the reservation boundaries," noting that only four years earlier, tribal members "had refused" Father Joset's proposal "to abandon village sites on the Coeur d'Alene and St. Joseph rivers and on Lake Coeur d'Alene."[255] Similarly, historian Jack Dozier indicated that the Coeur d'Alenes "were not even aware of the existence of the reservation until 1871," at which time they "voiced their refusal to accept any boundaries which excluded their mission, Coeur d'Alene Lake and the St. Joe River."[256]

The commissioner of Indian affairs' annual reports from the late 1860s and early 1870s provided further confirmation of these historians' findings. For example, Idaho's superintendent of Indian affairs reported in September 1869 that the Coeur d'Alene and Spokane Indians claimed the entire region lying "north of the Nez Perces" and had never "been collected on reservations."[257] Likewise, in their 1870 and 1871 annual reports, the agents who held jurisdiction over the northern Idaho and eastern Washington Indians reported to the commissioner that Coeur d'Alene tribal members "farm on a small scale, but subsist principally by hunting and fishing."[258] Moreover, Indian officials had not yet attempted "to collect them on reservations," claiming that "so long as their country remains unoccupied, or is not demanded by the whites, this is perhaps unnecessary."[259]

The Seltice account additionally supports these statements. In particular, Seltice indicated that, in December 1868, Coeur d'Alene families continued to reside in village sites located throughout the Tribe's traditional territory, including locations in the Spokane valley, at present-day Coeur d'Alene, at Chatcolet, Che-mee-wees, along the St. Joe River, and in "the west Palouse." Moreover, Seltice emphasized the continued significance of fishing among tribal members in 1867, discussing, for example, "a hand-made net" that some tribal members used that summer "to string across the headwaters of the Spokane River." These nets enabled the Coeur d'Alenes at Spokane Falls to catch "thousands of whitefish and mountain rainbow trout day after day," while other tribal members were catching "many thousand fish" along "the shores of the beautiful Lake Coeur d'Alene." Still

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[255] Woodworth-Ney, *Mapping Identity*, 82–83, USA-CDA00021719.

[256] Dozier, "History of the Coeur d'Alene Indians to 1900," 88, USA-CDA00001416.

[257] De L. Floyd Jones, Superintendent of Indian Affairs, Idaho Territory, to E. S. Parker, Commissioner of Indian Affairs, September 28, 1869, in ARCIA 1869, 720, USA-CDA00004112.

[258] Wm. P. Winans, Farmer in Charge, Fort Colville, to T. J. McKenny, Superintendent of Indian Affairs, Washington Territory, September 1, 1871, in ARCIA 1871, 710–711, USA-CDA00004131.

[259] De L. Floyd Jones, Superintendent of Indian Affairs, Idaho Territory, to E. S. Parker, Commissioner of Indian Affairs, September 10, 1870, in ARCIA 1870, 646, USA-CDA00004124.

other tribal members who traditionally resided in the Palouse valley near present-day Colfax and Potlatch were likewise "making an easy living" by using their "hand-made" fish nets.[260]

Discussing the ongoing importance of traditional subsistence activities in the late 1860s, the Seltice account indicated that it was "the responsibility of the Indian father to see that his family was supplied with fish, meat, roots and berries." Moreover, according to Seltice, the Coeur d'Alene perception of "civilization" remained inextricably connected to traditional subsistence activities at this time. Outlining tribal members' views about "the real meaning of the word 'civilization,'" in the context of increasing non-Indian settlement in their territory, Seltice stated:

> We have good homes, good lands fenced in, machinery of our own making, many horses and cattle, and beautiful streams that furnish us with a good supply of fish. The Clearwater and Coeur d'Alene mountains supply us with meat the year round, valleys give us an abundant supply of roots; wild game furnishes us warm clothing; a beautiful Church supplies our spiritual needs. Despite the example of the packers and the judgment of generals and colonels, is this not civilization?[261]

Creating the 1873 Coeur d'Alene Indian Reservation

Tribal Opposition to the 1867 Reservation Boundaries

Coeur d'Alene leaders expressed vehement opposition to the 1867 reservation boundaries upon learning of the reservation's creation in the winter of 1871–1872. Tribal leaders sent a petition to the Indian Office that winter criticizing the mere "20 square miles" set apart for them and "requesting a part of our land to be allotted for our own exclusive use." Nearly a year passed without the Tribe receiving a response to this initial petition, which led tribal leaders to submit a second petition in November 1872. Signed by ten Coeur d'Alene chiefs, including Andrew Seltice, the November petition began by noting an unintended oversight in the earlier letter—tribal leaders had failed to discuss either the vital importance of the waterways within their traditional territory or the value of the Cataldo Mission to the Tribe. Regarding the latter, they stated that the mission was "very dear to us" and that "never for a moment" had tribal members "harboured the thought of abandoning it."[262]

Meanwhile, discussing the significance of their traditional waterways, the Coeur d'Alene leaders indicated that they had not specifically mentioned "the two valleys of S. Joseph and Coeurs D'alene rivers" in their first petition "because in our ignorance we thought it a matter of course." Although these valleys had been "from old the habitual residence of most of us," the leaders wrote, "we did not think to ask for them" since tribal members believed "no white man could ever settle there." Noting that non-Indians had yet to settle in either valley, the Coeur d'Alene petitioners reported that

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[260] Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 218, 224–225, USA-CDA00001740.

[261] Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 166, 218, USA-CDA00001740.

[262] Petition of the "Chiefs and People of the Coeurs D'Alene" [Coeur d'Alene Petition], November 18, 1872, C-417, Roll 912, M234, frames 868–872, USA-CDA00021418.

most of the St. Joe and Coeur d'Alene valleys were "under water" each spring and that the "few spots" that "usually escape[d]" the annual spring flooding were "fenced in and cultivated" by tribal members. Tribal leaders then requested an expansion of the 1867 reservation boundaries to include lands along the Coeur d'Alene and St. Joe Rivers, noting the continued importance of "hunting and fishing" to tribal members:

> What we are unanimous in asking, besides the 20 square miles already spoken of, are the two valleys, the S. Joseph's from the junction of S. and N. forks, and the Coeurs d'alene from the Mission inclusively. It would appear too much, and it would be so if all or most of it were fit for farming; but the far greatest part of it is either rocky, or too dry, too cold, or swampy; besides we are not as yet quite up to living on farming: with the word of God we took labor too; we began tilling the ground and we like it; though perhaps slowly we are continually progressing; but our unaided industry is not as yet up to the white man's. We think it hard to leave at once old habits to embrace new ones: for a while yet we need have some hunting and fishing.[263]

In addition to requesting an enlargement of the Coeur d'Alene Reservation, tribal leaders also asked for "some kind of title" to the lands within the expanded reservation. Arguing in favor of securing "title" to their lands, the petitioners stated, "Uncertainty tends to paralyze our people: when certain of a home they will work with new energy." They also encouraged the Indian Office to send an agent to their territory in the spring of 1873 to "visit the land" and "see what we ask for, and what we have done already."[264]

During the intervening months between the two 1872 Coeur d'Alene petitions, events occurred in Colville territory in northeastern Washington that added to tribal concerns about the status of their lands. Reporting on this issue in October 1872, Washington Superintendent of Indian Affairs R. H. Milroy stated that military officials had informed him that the Coeur d'Alenes feared the Indian Office would force them to move to the recently created Colville Reservation. Regarding this possibility, Coeur d'Alene leaders indicated that reservation in northeastern Washington was "not suitable to their wants" and that they considered it "unjust on the part of the Government to take their lands and drive them to a barren country."[265]

Military officials who met with Coeur d'Alene leaders in the spring and summer of 1872 provided additional details about tribal members' stringent opposition to leaving their traditional territory. Writing in August 1872, the assistant inspector general at Fort Colville, E. H. Ludington, informed his superiors that the Coeur d'Alenes and other tribes in the region were "greatly dissatisfied in view of their proposed removal to a reservation West of the Columbia [River]." Calling this proposal "unjust," the "Chiefs of the Spokanes and Coeur D'Alenes" told Ludington that they would "rather be killed where they are than to starve on the [Colville] reservation, and that

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[263] Coeur d'Alene Petition, November 18, 1872, C-417, Roll 912, M234, frames 868–872, USA-CDA00021418.

[264] Coeur d'Alene Petition, November 18, 1872, C-417, Roll 912, M234, frames 868–872, USA-CDA00021418.

[265] R. H. Milroy, Superintendent of Indian Affairs, Washington Territory, to F. A. Walker, Commissioner of Indian Affairs, October 1, 1872, in ARCIA 1872, 342–343, USA-CDA00021391.

they cannot move." Ludington additionally reported that the Coeur d'Alene leaders had asserted that "General Wright promised them perpetual possession of Hangman Valley."[266]

Colonel George Sanford provided still further evidence of the Coeur d'Alenes' unwillingness to move to the Colville Reservation. After meeting with several tribal members at a village site near Hangman Creek in May 1872 (including Chief Andrew Seltice), Sanford reported that these bands were "strongly attached to the valley and refuse to let any white man come into it to settle." The colonel also indicated that they "appeared anxious to know my business and inquired frequently as to the probability of troops being stationed in their vicinity." Meanwhile, he remarked favorably on the lands and agricultural efforts of the Coeur d'Alenes with whom he met in the spring of 1872. Stating that the area along Hangman (Latah) Creek was "known as Paradise Valley," Sanford gave the following description of this "excellent" land:

> The grazing is as good as could possibly be desired. Timber of every description can be obtained within a few miles at any point; the water supply seems to be abundant, and although I have been told that it is slightly alkaline, I could detect no trace of it myself. Fine springs are found everywhere in the hill sides. The mountains extending in nearly a circle around, protect it from severe winds, and I understand that stock keep in good condition all winter without other shelter or feed than what they obtain for themselves.[267]

Sanford noted that the Coeur d'Alenes in "Paradise Valley" had "ploughed up a great deal of ground, built fences and cabins and are farming in earnest," as well as owning "a great number of horses and cattle." After noting these improvements, Sanford wrote that this reflected "the most creditable exhibition of industry that I have ever seen among Indians." He additionally indicated that the lands along Hangman Creek—where the "main valley" was "some ten (10) miles wide and about twelve (12) long"—represented the best "farming country" within the Coeur d'Alenes' traditional territory. Comparing it with other agricultural areas "in the territory usually occupied by them," Sanford argued that the St. Joe valley was "too wet," while the Coeur d'Alene valley was "small, and unsuitable for various reasons." Notably, though, despite Sanford's sanguine view of Coeur d'Alene farming endeavors, Ludington reported that tribal members had only 20 acres under cultivation by August 1872—clearly an amount that was insufficient for the Tribe to subsist without traditional hunting, fishing, and gathering activities supplementing their agricultural efforts.[268]

In an August 1872 letter endorsing Sanford's and Ludington's reports, Brigadier General Edward Canby stated that the "progress" of the Coeur d'Alenes was "exceedingly satisfactory" and that he believed their "apprehensions" regarding their possible removal to the Colville Reservation had been "excited unnecessarily and without authority." He indicated that Superintendent Milroy

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[266] E. H. Ludington, Assistant Inspector General, Fort Colville, to A. A. Adjutant General, Department of the Columbia, August 11, 1872, W-347, Roll 912, M234, frames 686–690, USA-CDA00021379.

[267] George B. Sanford, Captain, 1st Cavalry, to Assistant Adjutant General, Department of the Columbia, June 1, 1872, W-347, Roll 912, M234, frames 690–692, USA-CDA00021374.

[268] Sanford to Assistant Adjutant General, June 1, 1872, W-347, Roll 912, M234, frames 690–692, USA-CDA00021374; Ludington to A. A. Adjutant General, August 11, 1872, W-347, Roll 912, M234, frames 686–690, USA-CDA00021379.

had received "no instructions" to relocate "any Indians to the new reservation west of the Columbia river." Moreover, Canby asserted that the Coeur d'Alenes "were not to be disturbed and that the reservation directed by the Executive order of June 14, 1867, was a special provision for them." He closed his letter of endorsement by telling his superiors, "I regret that they have been disturbed by any apprehensions as to the permanency of their location." Major General J. M. Schofield, meanwhile, demanded "assurance from the Interior Department" that its officials would "remove" Coeur d'Alene tribal members' "apprehensions as to the permanency of their present home."[269]

With tribal concerns still not assuaged, Milroy instructed Colville Agent John Simms to convene a council with the Idaho Panhandle and northeastern Washington tribes "to ascertain their views about moving" to the Colville Reservation.[270] Reporting on a November 1872 meeting with the Coeur d'Alenes, Spokanes, and other regional tribes, Agent Simms indicated that, "without exception," the Indians "declared their unwillingness to go" to Colville, noting that they "manifest a great dislike to leave the place where they were raised and have always considered their homes." Simms thus advised the Indian Office to appoint a commission "to come here and treat with the Indians" in the spring of 1873, asserting that the unsettled land status of these tribes "should be amicably arranged as early in the spring as possible." He further argued that, when establishing reservation boundaries, "it is important that provision be made for securing the fisheries on the Columbia and Spokane Rivers to the Indians, these not being included within the present boundaries."[271]

Along with his report to Milroy, Simms sent a transcript of the speeches made by several Spokane, Colville, and Coeur d'Alene chiefs during the November 1872 council. Spokane Chief Garry was the first to speak, telling Simms, "We have always been here," and that "[t]he Indians all want to remain in this country." He further asserted, "I would sooner catch my fish, dig roots and hunt, than to give up my country." Arguing that the President "did us a great wrong" by establishing the boundary between the United States and Canada without consulting the affected tribes, Garry maintained that it was likewise "not right for the President to make a reserve for us without our consent." Although Coeur d'Alene Chief Andrew Seltice indicated that he "did not intend saying anything " at the council, Chief Garry's vehement opposition to moving to the Colville Reservation inspired him to tell Simms, "I am of the same mind." Seltice ended his speech by emphatically and unequivocally stating, "We have not sold our country and shall not leave it."[272]

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[269] Ed. R. P. Canby, Brigadier General, August 20, 1872, USA-CDA00021384; and J. M. Schofield, September 12, 1872; both in W-347, Roll 912, M234, frames 692–693, USA-CDA00021388.

[270] R. H. Milroy, Supt. Ind. Affairs, W.T., to F. A. Walker, Commissioner of Indian Affairs, December 15, 1872, M-359, Roll 912, M234, frames 1189–1191, USA-CDA00021430.

[271] John A. Simms, Special Indian Agent, Fort Colville, to Milroy, November 20, 1872, M-359, Roll 912, M234, frames 1208–1214, USA-CDA00021423.

[272] "Speeches of Indian Chiefs at Council Held Nov. 6, '72, by John A. Simms, Special Ind. Agent, Colville Reserve," November 6, 1872, M-359, Roll 912, M234, frames 1192–1199, USA-CDA00021410.

The Shanks Commission, the Coeur d'Alene Agreement of July 28, 1873, and the Executive Order of November 8, 1873

As recommended by both Coeur d'Alene leaders and Agent Simms, the Indian Office issued instructions in the spring of 1873, directing Oregon Superintendent of Indian Affairs T. B. Odeneal and Nez Perce Agent John B. Monteith to meet with the Coeur d'Alenes and report on their "condition" and "attitude towards the white settlers on lands claimed by them." The commissioner further instructed Odeneal and Monteith to determine "the exact limits of the country claimed by these Indians" and to ascertain the "conditions" upon which they would be "willing to relinquish their claim to the same and retire within boundaries of the reservation set apart for them by executive order dated June 14th 1867." Odeneal and Monteith were to report their findings to the Indian Office "as soon as practicable for the action of the Department."[273] Notably, the Indian Office sent this directive on March 8, 1873—one day after the Coeur d'Alenes' November 1872 petition arrived in Washington, D.C.[274]

Five days before issuing these instructions to Odeneal and Monteith, the commissioner had also received a letter from Secretary of the Interior Columbus Delano forwarding a report from Idaho citizen E. L. Applegate regarding "the situation of Indian Affairs at the Coeur d'Alene Mission and Reservation." Based on information provided by Applegate, Delano informed Acting Commissioner H. R. Clum that there was "some uncertainty" about the Coeur d'Alene Reservation boundaries, which had yet to be surveyed, and that "some difficulty" might soon "arise between the Indians and the white settlers adjacent to the reservation." Applegate additionally informed Delano that a portion of the 1867 reservation—where several Indian fields were located—was being "encroached upon by white settlers" and that tribal members would "fight for this [Hangman Creek] valley."[275]

In an April 1, 1873, letter acknowledging receipt of the Indian Office's instructions, Agent Monteith told the commissioner that many Coeur d'Alene families were "east of the mountains in camp with some Nez Perce's" and would not return to their villages until mid-May. Because of this, Monteith claimed that he and Odeneal "would accomplish nothing by going to the country in question before the fore part of May." He further asserted that it was unlikely that "any difficulty" would occur "before we can meet them."[276] Odeneal agreed with Monteith's assessment, telling the

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[273] H. R. Clum to T. B. Odeneal, Supt. Indian Affairs, Oregon, March 8, 1873, Roll 110, National Archives Microfilm Publication M21: *Letters Sent by the Office of Indian Affairs, 1824–1881* [hereinafter cited as M21], p. 503, USA-CDA00021433.

[274] Coeur d'Alene Petition, November 18, 1872, C-417, Roll 912, M234, frames 868–872, USA-CDA00021418. See trifold for the date on which the Indian Office received this petition.

[275] C. Delano, Secretary of the Interior, to H. R. Clum, Acting Commissioner of Indian Affairs, March 3, 1873; E. L. Applegate, "Memoranda on the Coeur d'Alene Indians," March 3, 1873; both in Roll 28, National Archives Microfilm Publication M825: *Selected Classes of Letters Received by the Indian Division of the Office of the Secretary of the Interior, 1849–1880* [hereinafter cited as M825], State of Idaho Exhibit No. 3245.

[276] Jno. B. Monteith, Indian Agent, Nez Perce Agency, to F. A. Walker, Commissioner of Indian Affairs, April 1, 1873, M-51, Roll 341, M234, frames 426–428, USA-CDA00021434.

commissioner, "I will be ready to comply with your instructions as soon as a meeting with the Indians is practicable."[277]

By the end of April 1873, the GLO had finalized a contract with Deputy Surveyor David P. Thompson to "survey and mark the exterior boundaries" of the 1867 Coeur d'Alene Reservation.[278] One of Thompson's first actions as deputy surveyor was to inform Idaho Surveyor General L. F. Cartee of a meeting he held with Father Joseph Cataldo that led him to recommend expanding the existing Coeur d'Alene Reservation boundaries. Noting that the 1867 borders excluded the Tribe's principal fisheries on Lake Coeur d'Alene and the St. Joe and Coeur d'Alene Rivers, Thompson argued, "Should the fisheries be excluded there will in my opinion be trouble with these Indians." However, he claimed there would be "no trouble" if the boundary lines were amended to include both the Indians' fisheries and the Cataldo Mission, which Thompson believed "should also be in the Reserve." He sent a "rough diagram" of the proposed enlargement, telling Cartee that "no settlers" were in the area and that it was "almost worthless as an agricultural country."[279]

Thompson's views about the inadequacy of the 1867 reservation were echoed by the Indian Office's Catholic commissioner, Charles Ewing. Writing in early June 1873, Ewing told Secretary Delano that the Coeur d'Alenes did not learn of the creation of the 1867 reservation "until some two years ago," at which point "they at once said it is not large enough." According to Ewing, tribal leaders not only desired a reservation "large enough for themselves & their Indian friends who wish to settle among them," but also wanted their lands "secured to them" in a "permanent" manner that would prevent non-Indians from seizing "the choice portions of it." To accomplish this, the Coeur d'Alenes demanded "to see a high officer, *direct* from their Great Father," whose authority would be "respected at Washington" and whose agreements with the Tribe would become "law, permanent law, unchangeable law."[280]

If the Coeur d'Alenes were able to have a "*big talk*" of this kind with an official who exhibited a high degree of "personal integrity," Ewing assured Delano that they would "fully open their hearts to him, confident that whatever they say will be taken in good part & will be used for their greater good." Ewing accordingly advised Delano to send "one of the Indian Inspectors, who is not prejudiced against the religion of these Indians" to meet with them. If they received "positive assurance" from high-ranking federal officials that their lands within a proposed new reservation

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[277] T. B. Odeneal, Supt. Indian Affairs, Oregon, to H. R. Clum, Acting Commissioner of Indian Affairs, April 9, 1873, O-19, Roll 341, M234, frames 704–706, USA-CDA00021440.

[278] Contract and Bond No. 42, Surveyor General's Office, Idaho Territory, April 5, 1873, C-111, Roll 341, M234, frames 83–85, USA-CDA00021437.

[279] D. P. Thompson, Deputy Surveyor, to L. F. Cartee, Surveyor General, May 6, 1873, L-111, Roll 341, M234, frames 290–294, USA-CDA00021443.

[280] Charles Ewing to Columbus Delano, Secretary of the Interior, June 5, 1873, E-25, Roll 912, M234, frames 926–932, USA-CDA00021467. Emphasis in original. For Ewing's status as Catholic commissioner, see ARCIA 1877, 318, USA-CDA00021543.

would "never be disturbed," he asserted that the Coeur d'Alenes would "be the happiest and most devoted wards or citizens of this Republic." Moreover, according to Ewing, they would be willing to "relinquish" lands outside of an enlarged reservation as long as they had a "guarantee that their reservation, as they want it, is secured to them."[281]

The same day Ewing wrote his letter to Delano, Commissioner of Indian Affairs E. P. Smith submitted Superintendent Odeneal's report on the condition of the Coeur d'Alene Indians to the secretary. In this May 15, 1873, report, Odeneal claimed that traveling to northern Idaho entailed "considerable expense," thus he did not visit Coeur d'Alene territory, nor did he meet with tribal leaders. Instead, he based his report on conversations with "reliable, well-informed gentlemen who are acquainted with the Indians and the country." According to these "well-informed" citizens, the Coeur d'Alenes subsisted "almost wholly by agriculture," and their principal "dispute" with non-Indian settlers related to farmlands in "'Hangman Creek' valley," where "most of the farms of the Indians" were purportedly located. The dispute reportedly hinged on whether these lands were inside or outside the borders of the 1867 reservation. Odeneal's informants believed that the GLO's forthcoming survey would clearly reveal that "the whole of the valley is within the limits of said Reservation." Thus, Odeneal maintained that the disagreement could be "satisfactorily adjusted" by simply surveying the 1867 reservation's boundaries.[282]

Odeneal's failure to visit Coeur d'Alene territory or to speak directly with tribal leaders limited the value of his report for the Interior Department and resulted in his lack of understanding about tribal opposition to the 1867 reservation. To address this, the Indian Office took a two-pronged approach to obtain more detailed information about the Tribe, upon which the secretary could take "official action." In mid-July 1873, Acting Commissioner Clum directed the newly appointed U.S. Indian Inspector E. C. Kemble to visit the Coeur d'Alenes to obtain "correct information" regarding the questions about which Odeneal was previously directed to report. Echoing the March 1873 instructions to Odeneal, Clum asked Kemble to ascertain "the exact limits of the country claimed" by the Indians and to determine the conditions upon which they would "relinquish their claim to the same and retire within" the 1867 reservation boundaries. Although he noted that Odeneal had submitted "a partial report" on these matters, Clum also indicated that the superintendent "did not

[281] Ewing to Delano, June 5, 1873, E-25, Roll 912, M234, frames 926–932, USA-CDA00021467. Emphasis in original.

[282] T. B. Odeneal, Supt. Ind. Aff., Oregon, to E. P. Smith, Commissioner of Indian Affairs, May 15, 1873, O-85, Roll 618, M234, frames 563–569, USA-CDA00021447. For the date that Smith transmitted Odeneal's report to Secretary Delano, see the trifold information on Odeneal's letter and Smith to Delano, June 5, 1873, Roll 23, National Archives Microfilm Publication M348: *Report Books of the Office of Indian Affairs, 1838–1885* [hereinafter cited as M348], pp. 53–54, USA-CDA00021474.

visit them in person."[283] For further guidance on these issues, Clum sent Kemble a copy of Charles Ewing's June 5, 1873, letter, urging an enlargement of the Coeur d'Alene Reservation.[284]

In the meantime, Commissioner Smith recommended that the duties of the recently appointed commission to negotiate with the Shoshone and Bannock Indians in southern Idaho be expanded to include talks with the Coeur d'Alenes. The three-member Shanks Commission—named after its chairman, John Shanks—also included Idaho Governor Thomas Bennett and Fort Hall Indian Agent Henry Reed. Originally appointed in April 1873 to attempt to secure a "relinquishment of certain privileges guaranteed to" the Shoshone and Bannock tribes under their 1868 treaty, the commissioners could not meet with the Shoshones and Bannocks upon their arrival in Idaho in July 1873 because tribal members were "scattered in various parts of the Territory" on their seasonal hunting and gathering rounds. According to Governor Bennett, any attempt to meet with the Shoshone and Bannock Indians "before the middle of September or first of October" would "prove fruitless."[285]

With the Shanks Commission unable to meet the tribes with whom they were appointed to negotiate, Commissioner Smith saw their presence in Idaho as an opportunity to address "the whole subject of our Indian relations" in the region. Smith thus gave Shanks, Bennett, and Reed broad discretion in the expanded instructions he delivered to them in early July. Since the talks with the Shoshone and Bannock Indians were "necessarily postponed for the time being," Smith directed the commission to "visit the reservations of the different tribes of Indians in Idaho" and report to him on "all causes of complaint existing on the part of the Indians against the whites in their immediate vicinity or *vice versa*, together with such suggestions for their cure or removal as may seem most judicious and proper." With regard to the nontreaty tribes in Idaho, Smith instructed the Shanks Commission as follows:

> Conferences should also be held as far as possible with any scattered or wandering bands with whom no treaty relations have heretofore been established, and proper inducements held out to them to abandon their roaming habits and consent to confine themselves within the limits of such reservation or reservations as may be designated for their occupancy. In fact the whole subject of our Indian relations in Idaho should be canvassed as thoroughly as time and opportunity will permit, and a succinct report thereof embodying in specific form such suggestions and recommendations as may seem to the Commission fit and proper for the correction of existing evils in the rescue and civilization of the Indians and the securing of peace and tranquility in the future to the white settlers of the Territory.[286]

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[283] H. R. Clum, Acting Commissioner of Indian Affairs, to E. C. Kemble, U.S. Indian Inspector, July 19, 1873, Roll 112, M21, p. 532, USA-CDA00021485.

[284] Clum to Kemble, July 21, 1873, Roll 112, M21, p. 543, USA-CDA00021486; Ewing to Delano, June 5, 1873, E-25, Roll 912, M234, frames 926–932 (see trifold for transmittal date), USA-CDA00021467.

[285] E. P. Smith, Commissioner of Indian Affairs, to J. P. C. Shanks, Special Commissioner, July 1, 1873, Roll 112, M21, pp. 432–433, USA-CDA00021483.

[286] Smith to Shanks, June 25, 1873, I-386, Roll 341, M234, frames 222–226, USA-CDA00021477. Note: This is the original copy of Smith's draft instructions, which the secretary approved on June 27. Smith sent these instructions to Shanks on July 1, 1873.

The Coeur d'Alene Indians were among the "straggling" nontreaty tribes in Idaho with whom Smith suggested the Shanks Commission should meet, "with a view to their settlement upon their respective reservations, or at some other point."[287] Governor Bennett agreed that it was "very important that the Coeur d'Alene Indians be visited" as part of the Shanks Commission's "additional duties."[288] The governor further suggested that, with its expanded responsibilities, the commission could "make a full report on Indian affairs in Idaho, which would give the Department a clear understanding of the question," and, in turn, would inspire "confidence" among the Indians and the white settlers in the territory.[289]

Two members of the Shanks Commission, along with Nez Perce Agent John Monteith, met with the Coeur d'Alenes prior to Inspector Kemble's visit to their territory. Arriving at the Nez Perce Agency in mid-July 1873, Shanks and Bennett requested Monteith to "accompany them" on their upcoming meeting with Coeur d'Alene leaders. After they "rode over" the 1867 reservation and "took notes of the boundaries," Shanks, Bennett, and Monteith held a council with tribal members at Hangman Creek on July 25–27, 1873, where they agreed to enlarge the boundaries of the Coeur d'Alene Reservation. Reporting on these negotiations in early August, Monteith informed Commissioner Smith that tribal members desired to have the 1867 boundaries "changed so as to include the new [Cataldo] Mission." The newly drawn lines would also incorporate a far greater extent of their traditional lands in northern Idaho. Outlining the Tribe's aboriginal territory, Monteith reported that the Coeur d'Alenes claimed the following area:

> We start at the head of the Palouse and run across to Steptoes Butte, from that point to Antoine Plants ferry, on the Spokan River then to the foot of "Pend D'Oreille" lake, thence up lake to the sum[m]it of Bitter-root Mountains then along sum[m]it of Mountains to place of beginning.[290]

Monteith outlined several reasons why the commission agreed with tribal leaders to expand the boundaries of the 1867 reservation. First, he stated that the 1867 borders would exclude "several Indian farms" in Hangman Creek valley while including "four places belonging to white settlers." Monteith also indicated that the newly drawn boundaries would "include all Indian farms in Idaho and leave out all white settlements." He additionally noted that, "[b]y starting on the ridge dividing Latah and Pine Creek and running from thence to the [Cataldo] Mission," the enlarged reservation would also "take in several Indian farms around the new Mission on the Coeur De Alene river." However, the inclusion of agricultural lands was not the commission's only consideration in agreeing to an expansion of the Coeur d'Alene Reservation. Notably, Monteith also reported that, by

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[287] Smith to Delano, June 18, 1873, Roll 23, M348, p. 76, USA-CDA00021476.

[288] Thomas Bennett, Idaho Governor, to Smith, May 21, 1873, B-403, Roll 341, M234, frames 30–37, USA-CDA00021454.

[289] Bennett to Smith, June 4, 1873, B-403, Roll 341, M234, frames 38–41, USA-CDA00021462.

[290] Monteith to Smith, August 6, 1873, M-407, Roll 341, M234, frames 547–552, pp. 1–3, USA-CDA00021501.

including lands along the upper Spokane River, Indian officials could "put the Mills at the upper falls," which would entail "much less expense than building a steam mill."[291]

The commission's final argument in favor of enlarging the Coeur d'Alene Reservation focused on the federal government's ability to relocate additional Indian tribes to the reservation. Noting that only the "Seltis band" was currently residing in the Hangman Creek valley, Monteith argued that the enlarged Coeur d'Alene Reservation was of sufficient size to allow the Colville or Spokane tribes to move there, with the former reportedly more willing than the latter. Monteith wrote:

> The valley of the Latah or Hangman Creek is very fertile and would support many more than belong to Seltis band of Indians and if some arrangement could be made to remove the Indians from the Colville Reserve, on that Reservation, I think it would be of great advantage to both Government and Indians.[292]

Writing about the negotiation of the 1873 agreement in a September 18, 1873, letter published in the *Idaho Signal*, Governor Bennett informed the newspaper's readers that "the Indians *demanded* an extension of their reservation so as to include the Catholic Mission and fishing and mill privileges on the Spokane River." Bennett reiterated that the secretary of the interior had "directed" the Shanks Commission "to see these Indians and ascertain what were their desires and learn what compensation would induce them to cede to the Government all their title to lands outside the reservation, and to retire within their reservation." Moreover, he indicated that the "proposed new reservation" would "leav[e] out the whole of the Pine Creek Valley and the settlers in it" and that the "new reservation would not include any settlements not in before."[293]

The agreement itself was signed on July 28, 1873, by Shanks, Monteith, Bennett, and eight Coeur d'Alene leaders, including Head Chief Andrew Seltice. It provided for the United States to "set apart and secure as a Reservation, for the exclusive use of the Coeur de Alene Indians," lands within significantly expanded boundaries that encompassed the entirety of Lake Coeur d'Alene, as well as many of the Tribe's traditional villages and principal fisheries along the Coeur d'Alene, Spokane, and St. Joe Rivers. Reflecting the importance of these waterways, the agreement stipulated that "the waters running into said reservation shall not be turned from their natural channel where they enter said reservation." Meanwhile, the new boundaries—which the federal government promised to "protect" from non-Indian "settlement or occupancy," while also reserving the right to build roads and other travel routes—included the following lands (see Figure 7):

> Beginning at a point on the top of the dividing ridge between Pine and Latah (or Hangman's) Creeks directly south of a point on said last named creek, six miles above the point where the trails from Lewiston to Spokane Bridge crosses said creek; thence in a North Easterly direction, in a direct line, to the Coeur de'Alene Mission, on the Coeur de'Alene river (but not to include the lands of said mission; thence in a Westerly direction, in a direct line, to the point where the Spokane river heads in,

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[291] Monteith to Smith, August 6, 1873, M-407, Roll 341, M234, frames 547–552, pp. 3–4, USA-CDA00021501.

[292] Monteith to Smith, August 6, 1873, M-407, Roll 341, M234, frames 547–552, pp. 4–5, USA-CDA00021501.

[293] "Governor Bennett's Letter," September 18, 1873, in *Idaho Signal*, October 4, 1873, USA-CDA00006617. Emphasis in original.

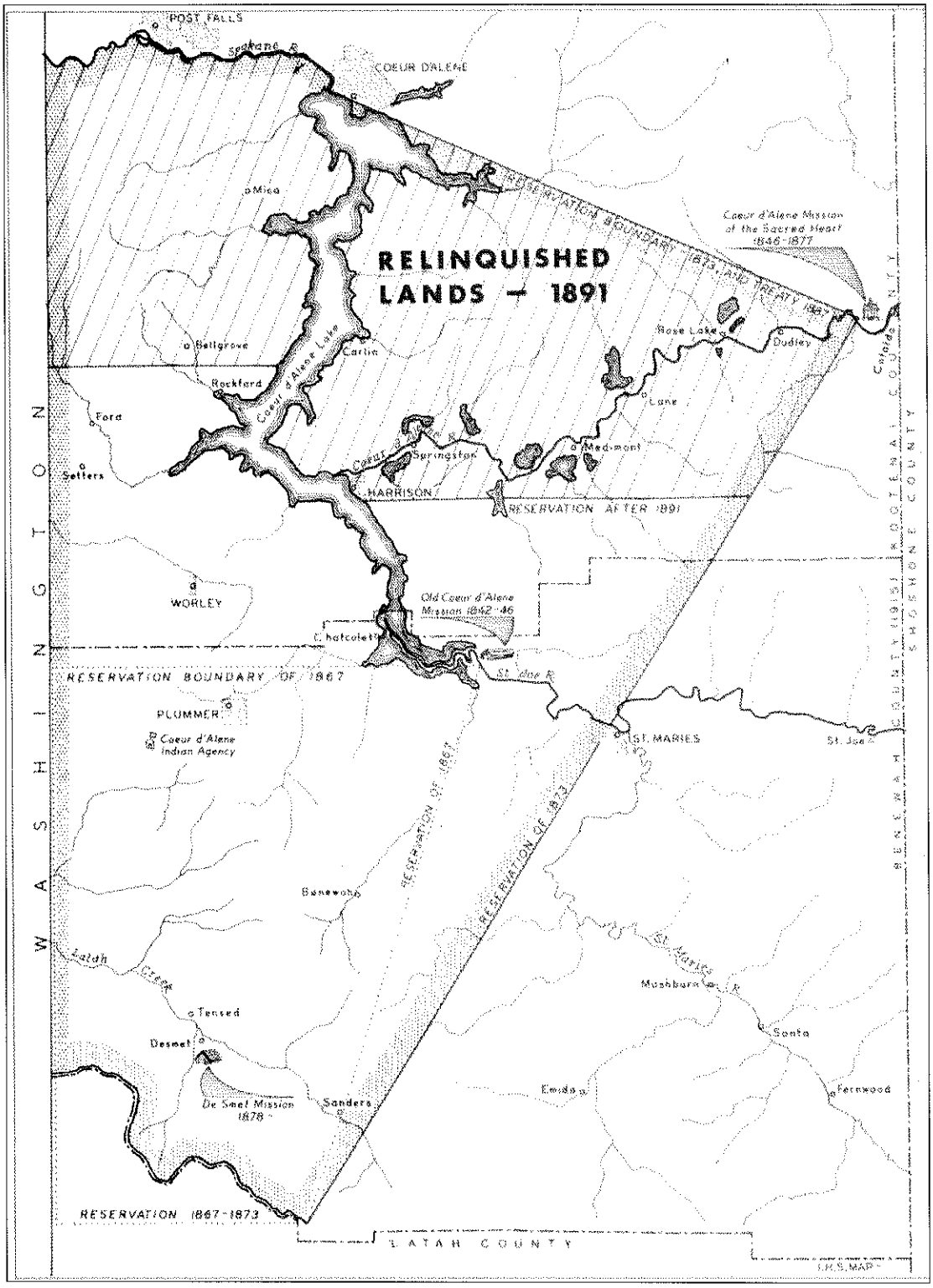

Figure 7. Map Showing 1873 Boundaries of the Coeur d'Alene Indian Reservation.
Source: Dozier, "Coeur d'Alene Country," *Idaho Yesterdays* 6, no. 3 (Fall 1962): 6.

Exhibit 1 to Affidavit of Ian Smith

> or leaves the Coeur de'Alene lakes; thence down along the center of the channel of said Spokane river to the dividing line between the Territories of Idaho, and Washington, as established by the act of Congress organizing a territorial government for the territory of Idaho; thence South along said dividing line to the top of the dividing ridge between Pine and Latah (or Hangman's) Creeks; thence along the top of said ridge to the place of beginning.[294]

Although these newly defined boundaries more than doubled the size of the 1867 reservation—expanding it from 250,000 acres to roughly 590,000 acres—this still included "less than a quarter of the tribe's aboriginal territory," according to anthropologist Gary Palmer. The U.S. Supreme Court confirmed this assessment in its June 2001 opinion in *Idaho v. United States*, writing that the Coeur d'Alene Indians "once inhabited more than 3.5 million acres in what is now northern Idaho and northeastern Washington, including the area of Lake Coeur d'Alene and the St. Joe River."[295] Under the July 1873 agreement, tribal leaders agreed to "relinquish" those areas lying outside the newly defined reservation boundaries, surrendering "all their right and title in and to" these unreserved, aboriginal areas to the federal government. In consideration, the United States promised to pay $170,000 to the Coeur d'Alenes and to provide them with wagons, plows, horses, a grist mill, a saw mill, school buildings, a blacksmith, and sundry other agricultural implements.[296]

However, the agreement provided that the consideration to be paid to tribal members for relinquishing these aboriginal lands was conditioned on Congress's consent. Article four stipulated that the July 1873 agreement would be "submitted to the Congress of the United States, for its approval." Upon receiving congressional sanction, it would "thereafter be binding and of full force and effect." But if Congress failed to ratify the agreement, it would become "null and void and of no effect."[297] This requirement reflected, in part, the end of treaty making with Indian tribes in the United States, which formally concluded with the passage of the 1871 Indian Appropriations Act. As Woodworth-Ney noted, "After 1871, reservations resulted from presidential executive orders or agreements. Unlike treaties, agreements required approval by both the House and the Senate."[298]

Reporting on the Coeur d'Alene negotiations in early August 1873, Shanks told Secretary Delano that he and Governor Bennett had, "in conjunction with Mr. Monteith," entered an agreement with the Tribe that would soon be "submitted to you & to Congress." In the meantime, he urged Delano "to not permit a survey" of the 1867 Coeur d'Alene Reservation "until our report is in."[299] Shanks, Bennett, and Monteith sent a separate telegram to the secretary on August 6, 1873, telling him that

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[294] Agreement Made and Entered Into on This 28th Day of July, A.D., 1873 at Latah (or Hangman's) Creek [Coeur d'Alene Agreement], M-407, Roll 341, M234, frames 553–562, pp. 4–6, USA-CDA00021487.

[295] Palmer, "Indian Pioneers," 27–28, USA-CDA00021693; *Idaho v. United States, et al*, 533 U.S. 262 at 265 (2001), USA-CDA00021648; Woodworth-Ney, *Mapping Identity*, 96, USA-CDA00021719.

[296] Coeur d'Alene Agreement, July 28, 1873, M-407, Roll 341, M234, frames 553–562, pp. 6–9, USA-CDA00021487.

[297] Coeur d'Alene Agreement, July 28, 1873, M-407, Roll 341, M234, frames 553–562, p. 10, USA-CDA00021487.

[298] Woodworth-Ney, *Mapping Identity*, 95, USA-CDA00021719.

[299] J. P. C. Shanks to C. Delano, Secretary of the Interior, August 1, 1873, S-315, Roll 341, M234, frames 931–934, USA-CDA00021497.

they "will recommend a change in line of [the Coeur d'Alene] reservation." They further advised Delano to halt the GLO's survey of the 1867 boundaries, arguing that any existing orders for such a survey "should be countermanded until our report is made."[300] In accordance with this proposal, on August 8, 1873, Acting Secretary B. R. Cowan directed the GLO commissioner to "cause said survey to be stopped," transmitting a copy of the August 6 telegram as his reason for issuing this order.[301]

Meanwhile, Inspector Kemble—who arrived in northern Idaho to meet with the Coeur d'Alenes in early September 1873—reported that tribal members were "too much scattered" at that time "to be gathered together" for a council.[302] Moreover, upon his arrival, Kemble learned that "subjects precisely similar to those" about which he had been ordered to talk with tribal members "had already been treated in the council held" by Shanks, Bennett, and Monteith with the Coeur d'Alenes. Kemble additionally reported that the Shanks Commission's agreement had "practically disposed of" all the issues outlined in his July 1873 instructions from the Indian Office. Stating that he was "in some doubt what course to pursue," Kemble requested Commissioner Smith to notify him, in the future, whenever "subjects referred to me are put into the hands of other officers of the Government." Thus, with the July 1873 agreement in place, Kemble left northern Idaho without holding a council or reporting further on the status of the Coeur d'Alene Indians.[303]

By the time Kemble arrived among the Coeur d'Alenes, Shanks had traveled to Colville territory, where he met with tribal leaders—along with Superintendent Milroy and Agent John Simms—and learned of the Indians' dissatisfaction with the recent shift in their reservation boundaries. Between April and July 1872, the Colville Reservation had been moved from an area east of the Columbia River in northeastern Washington to lands lying west of the Columbia River, due to the "selfish motives" and "great injustice" done by former Colville Agent Park Winans. According to the Shanks Commission, the lands west of the Columbia were "in a frigid and high latitude, where farming is impossible." Moreover, the July 1872 Colville Reservation "cut the Indians off from the Columbia River and remove[d] them from the Spokane River, the only sources from which they could procure a livelihood by fishing, game being nearly exhausted." The commissioners thus viewed efforts to force the northeastern Washington Indians onto "the reservation west of the

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[300] J. P. C. Shanks, T. W. Bennett, John B. Monteith, Telegram, August 6, 1873, I-663, Roll 341, M234, frame 239, USA-CDA00021507.

[301] B. R. Cowan, Acting Secretary of the Interior, to Commissioner, General Land Office, August 8, 1873, I-663, Roll 341, M234, frames 235–238, USA-CDA00021509.

[302] Edw. C. Kemble, Inspector Ind. Affairs, to E. P. Smith, Commissioner of Indian Affairs, September 10, 1873, Inspector's File No. 558, Roll 56, National Archives Microfilm Publication M1070: *Reports of Inspection of the Field Jurisdictions of the Office of Indian Affairs, 1873–1900* [hereinafter cited as M1070], USA-CDA00021512.

[303] Kemble to Smith, September 28, 1873, Inspector's File No. 557, Roll 56, M1070, USA-CDA00021516. Kemble's weekly report of November 10, 1873, provided further evidence that had yet to meet formally with the Coeur d'Alenes by that time. See Kemble to Smith, November 10, 1873, K-162, Roll 912, M234, frames 1140–1142, USA-CDA00021526.

Columbia River" as an attempt to either "annihilate them or make them a perpetual tax on the Government," even though they were "industrious and desire to make their own living by work."[304]

The Coeur d'Alenes were not present at the August 12, 1873, council held by Shanks, Milroy, and Simms—instead, Shanks reported that the talks were held with the "Colvilles, Lakes, San Poels, Okinakanes, Upper and Lower Spokanes, and Calispells." Despite the absence of Coeur d'Alene leaders at the August 1873 council, the Shanks Commission ultimately relied on those talks to propose that a newly defined Colville Reservation lying east of the Columbia River should become a "permanent reservation" and "home" for all of the above-listed tribes, in addition to the Coeur d'Alenes, Pend d'Oreilles, Kootenays, and Methows. Notably, Shanks's report on the August 1873 council revealed that one of the primary purposes for establishing this proposed reservation—which included a five-mile strip of land in the Idaho Panhandle that stretched from Hangman Creek valley to the Canadian border—was to ensure Indian access to "the salmon fisheries on the Spokane and Columbia [Rivers]." Shanks asserted that, by denying tribal members the "privilege of fishing," the government would be "literally robbing the Indians of their country and their food."[305]

The Shanks Commission's final report—written on November 17, 1873, and received by the Interior Department on December 18, 1873—reflected the commissioners' proposed change in policy. Reporting on the July 1873 Coeur d'Alene agreement, the Shanks Commission told the Indian Office that, "after an investigation of the whole subject," they "now" advised that "the agreement entered into with the Coeur d'Alenes be not confirmed." Instead, they argued that "the reservation recommended by the commission for the nine tribes, including the Coeur d'Alenes, be adopted." The commissioners further informed Smith that they had "only joined Mr. Monteith" in negotiating the July 1873 agreement because "there seemed to be a necessity for it at the time." They also expressed uncertainty about whether the agreement had been "reported to you."[306]

Not only had the July 1873 agreement been reported to the Indian Office, but President Ulysses Grant had taken executive action on it, thereby expanding the Coeur d'Alene Reservation to roughly 590,000 acres, nine days before the Shanks Commission wrote its final report. Submitting the Coeur d'Alene agreement to Secretary Delano on November 4, 1873, Commissioner Smith urged President Grant to issue an executive order establishing the boundaries outlined in the agreement "for the use of said Indians." Smith recommended such action so the lands "may be

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[304] John P. C. Shanks, T. W. Bennett, and Henry W. Reed to the Commissioner of Indian Affairs [Shanks Commission Report], November 17, 1873, in House, *Proposed Indian Reservations in Idaho and Washington Territories*, 43d Congress, 1st session, January 23, 1874, H. Ex. Doc. 102, serial 1607, 3–4, USA-CDA00003773. For a further discussion of the relocation of the Colville Reservation in July 1872, see Woodworth-Ney, *Mapping Identity*, 87–88, USA-CDA00021719.

[305] Shanks to Bennett and Reed, August 14, 1873, in House, *Proposed Indian Reservations in Idaho and Washington Territories*, 43d Congress, 1st session, January 23, 1874, H. Ex. Doc. 102, serial 1607, 5–6, USA-CDA00003773.

[306] Shanks Commission Report, November 17, 1873, in House, *Proposed Indian Reservations in Idaho and Washington Territories*, 43d Congress, 1st session, January 23, 1874, H. Ex. Doc. 102, serial 1607, 4–5, USA-CDA00003773. For the date on which the Interior Department received the Shanks Commission Report, see the trifold of the copy of the report in Letter No. S-786, Roll 341, M234, frames 938–946, USA-CDA00021529.

protected from trespass by white persons pending the action of Congress upon said agreement."[307] Four days later, on November 8, 1873, President Grant promulgated an executive order to "set apart as a reservation for the Coeur d'Alene Indians" the lands described in the July 28, 1873, agreement.[308]

Discussing these actions in his 1873 annual report, Smith informed Delano that the Shanks Commission had "succeeded in having a council" with the Coeur d'Alenes, which resulted in tribal members agreeing "to go upon a reservation which was, at the time, described to them, and which has since been set apart temporarily by the President until legislation can be had thereon by Congress." He further informed Delano that the Coeur d'Alenes had been "dissatisfied with" the 1867 reservation boundaries and thus "never located thereon, and continued to roam over the tract of country claimed by them."[309]

The July 1873 agreement sought to extinguish tribal claims to lands outside the expanded 1873 reservation boundaries and to locate tribal members "on a reservation suitable to their wants as an agricultural people." Pending congressional action on the July 1873 agreement, Smith "deemed it prudent to have set apart by executive order the tract of country described in said agreement as a reservation for said Indians," which would thereby prevent non-Indians "from settling thereon and claiming compensation for improvements from the Government."[310] Although it took nearly two decades, Congress ultimately "accepted, ratified, and confirmed" the 1873 reservation boundaries through the passage of the Act of March 3, 1891.[311]

Congressional Consideration of the Shanks Commission Agreements and the Relocation of the Sacred Heart Mission to DeSmet, 1874-1880

On December 4, 1873—two weeks before receiving the Shanks Commission's final report—Acting Commissioner Clum officially submitted the July 1873 Coeur d'Alene agreement to Secretary Delano "for the action of Congress thereon." Clum stated that the agreement had been negotiated "under the direction of this Department, for the purpose of extinguishing the title of said Indians to all the lands claimed by them in said Territory of Idaho." Meanwhile, the enlarged 1873 reservation had been created "for the purpose of establishing for them a reservation suitable to their

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[307] E. P. Smith, Commissioner of Indian Affairs, to C. Delano, Secretary of the Interior, November 4, 1873, Roll 23, M348, p. 341, USA-CDA00021525.

[308] Executive Order, November 8, 1873, in Kappler, *Indian Affairs: Laws and Treaties*, vol. 1, 837, USA-CDA00001713.

[309] Edw. P. Smith, Commissioner of Indian Affairs, to the Secretary of the Interior, November 1, 1873, in ARCIA 1873, 17, 24, USA-CDA00021519.

[310] Smith to the Secretary of the Interior, November 1, 1873, in ARCIA 1873, 392, USA-CDA00004161.

[311] Act of March 3, 1891, 26 Stat. 989 at 1027, USA-CDA00021598.

wants as an agricultural people." Stating that these objectives would "be attained by this agreement," Clum "recommended its ratification by Congress."[312]

After the Indian Office received a copy of the Shanks Commission's final report, Commissioner Smith altered his office's initial recommendation to Delano. Writing on January 13, 1874, Smith reported that the proposed, newly defined Colville Reservation lying east of the Columbia River "supersedes the reservation provided for in the [July 1873] agreement." As a result, Smith submitted the Shanks Commission's draft bill to Delano, which called for the establishment of new boundaries for the Colville Reservation as a home for ten tribes in northeastern Washington and the Idaho Panhandle, including the Coeur d'Alenes. Smith requested the secretary to send the bill to Congress "for action, as indicated therein."[313]

As reflected in the Shanks Commission's final report, the bill's language revealed that protecting tribal fisheries was of primary importance in establishing the proposed reservation for these ten tribes. In particular, the bill stipulated that "no artificial obstructions shall be placed or maintained in the Columbia or Spokane Rivers which shall interfere with or impede the free range of fish in said streams." Moreover, the proposed legislation specifically provided that "the Indians herein named," including the Coeur d'Alenes, would not "be deprived of the right to take fish from said rivers within the limits of the reservation herein provided for them." As indicated above, the proposed boundaries of the newly defined Colville Reservation included a five-mile strip of land along the western edge of the Idaho Panhandle, stretching from "the dividing ridge" between Hangman Creek and Pine Creek northward to the Canadian border.[314]

Despite the bill's introduction in Congress a week after Smith sent it to Delano, it quickly died in committee, thereby undermining efforts to reestablish a new Colville Indian Reservation east of the Columbia River. Illinois Senator Richard Oglesby introduced the bill on January 20, 1874, as Senate Bill 349 (S. 349). However, by March 10, 1874, the Senate Committee on Indian Affairs had "reported adversely" on S. 349, postponing it "indefinitely"—an action that resulted in the bill never again receiving congressional consideration.[315] According to Woodworth-Ney, the proposed payment of $164,700 to non-Indian settlers who had made improvements within the boundaries of the newly defined Colville Reservation "doomed" the proposed law.[316]

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[312] H. R. Clum, Acting Commissioner of Indian Affairs, to C. Delano, Secretary of the Interior, December 4, 1873, Roll 23, M348, pp. 426–427, USA-CDA00021538.

[313] Edw'd P. Smith, Commissioner of Indian Affairs, to the Secretary of the Interior, January 13, 1874, in House, *Proposed Indian Reservations in Idaho and Washington Territories*, 43d Congress, 1st session, January 23, 1874, H. Ex. Doc. 102, serial 1607, 3, USA-CDA00003773.

[314] A Bill to Create a Reservation in the Territory of Washington for the Coeur d'Alene and Other Indian Tribes Therein Named, in House, *Proposed Indian Reservations in Idaho and Washington Territories*, 43d Congress, 1st session, January 23, 1874, H. Ex. Doc. 102, serial 1607, 1–2, USA-CDA00003773.

[315] *Congressional Record*, 43d Congress, 1st session, January 20, 1874, vol. 2: 775, USA-CDA00003694; *Congressional Record*, 43d Congress, 1st session, March 10, 1874, vol. 2: 2089, USA-CDA00021540.

[316] Woodworth-Ney, *Mapping Identity*, 99, USA-CDA00021719; "Census of the White Inhabitants Residing Between the Spokane and Columbia Rivers, Together With the Whole Amount of Assessable Property of Those Owning Real

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Meanwhile, Smith noted in his 1874 annual report that legislation "confirming" the July 1873 agreement with the Coeur d'Alenes had "not yet been enacted," even though the reservation proposed in the agreement had been "withdrawn by Executive order for the use of these Indians." Absent congressional approval, the aboriginal areas proposed to be relinquished by the Tribe under the terms of the July 1873 agreement remained within tribal control, since the agreement stipulated that the cession of these lands would only occur through the enactment of "the necessary legislation confirming this negotiation." By contrast, the 1873 reservation expansion became fully effective upon the issuance of President Grant's executive order. The formal relinquishment of the Coeur d'Alenes' traditional lands lying outside the 1873 reservation boundaries would not occur for another eighteen years, with the passage of the Act of March 3, 1891.[317]

At the time of Grant's 1873 executive order, most tribal members still resided in their traditional village sites along the numerous rivers, lakes, and waterways located throughout the Coeur d'Alenes' aboriginal territory, continuing their seasonal rounds of hunting, fishing, and gathering, which were supplemented by their farming endeavors. As Smith noted in his 1874 annual report, the Coeur d'Alenes "never settled upon the reservation set apart for them by Executive order in 1867," but instead continued "roaming" throughout their aboriginal territory.[318] By the following year, however, an increasing number of tribal families had begun establishing farms and homes in the Hangman Creek valley along the southern tier of the 1873 reservation.[319]

According to the Seltice account, the earliest emigrants to the Hangman valley—including the families of Head Chief Andrew Seltice and Peter Wildshoe—began establishing new farms and gradually moving to the Tribe's former camas grounds as early as 1870. However, most families remained "undecided about relocating" and stayed in their traditional village sites near Lake Coeur d'Alene and along the Coeur d'Alene, St. Joe, and Spokane Rivers until an 1875 "crop failure along the Coeur d'Alene River" prompted their decision to move. Despite this decision, Seltice noted that many of these families did not make a permanent move for a number of years, but rather maintained "their large herds of stock in the Spokane Valley until they could break up enough land in the Palouse."[320]

Anthropologist Gary Palmer has also suggested that non-Indian settlement and trespass in the Hangman valley near DeSmet, Idaho, was a primary motive for Coeur d'Alene families to move to the Palouse country. Palmer indicated that, during the "summer of 1875 or 1876, a group of Coeur d'Alene women . . . discovered a cabin and the sheds of white squatters at a place just north

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Estate," in House, *Proposed Indian Reservations in Idaho and Washington Territories*, 43d Congress, 1st session, January 23, 1874, H. Ex. Doc. 102, serial 1607, 10–11, USA-CDA00003773.

[317] Edw. P. Smith, Commissioner of Indian Affairs, to the Secretary of the Interior, November 1, 1874, in ARCIA 1874, 367–368, USA-CDA00004173.

[318] Smith to the Secretary of the Interior, November 1, 1874, ARCIA 1874, 367, USA-CDA00004173.

[319] Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 235–237, 248–251, USA-CDA00001740.

[320] Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 236, USA-CDA00001740.

of present-day Tensed," which "alarmed" them and encouraged many families to relocate to protect these lands. Providing further encouragement was Father Alexander Diomedi, who anticipated that a flood of non-Indian settlers would soon descend on tribal lands. He advised the Coeur d'Alenes to guard against losing lands in the DeSmet area by "break[ing] the sod, sow[ing] grain, [and] plant[ing] vegetables" there. Some tribal members opposed relocating, with Agusta asking Diomedi why they had to "leave these woods which supplied us with fuel and game" and the waterways that had provided "trout and beaver." However, the majority of Coeur d'Alene families began to relocate to the DeSmet area by the late 1870s and early 1880s.[321]

A final factor in the removal of Coeur d'Alene families from their traditional villages to the Hangman Creek valley was the relocation of the Sacred Heart Mission from Cataldo to DeSmet, Idaho. The Jesuits' move occurred in 1877, and, "[b]y the early 1880s, the new mission included a church, a rectory for the Jesuit fathers, and a boys' boarding school."[322] Meanwhile, by 1879, Colville Agent John Simms reported that the Coeur d'Alenes had already "excel[led] all others" under his jurisdiction "in the number of their well-improved farms and in the crops they raise."[323] The following year, Simms reported that the Coeur d'Alenes' agricultural progress in the DeSmet area was "particularly encouraging," with many tribal members holding "valuable tracts, well fenced and cultivated in a manner that would be considered creditable in any frontier settlement." The agent further stated that tribal members had a total of "160 farms" in which they took "great pride" and from which they found "a ready sale for their surplus produce at good prices."[324]

Regardless of the agricultural success of the Coeur d'Alene families who moved to the DeSmet area, not all tribal members relocated from their traditional village sites along tribal waterways. For example, the Seltice account stated that "a few families insisted on staying at the [Cataldo] Mission for their permanent homes," while another "few families along the Coeur d'Alene River" were never "persuade[d] to leave for farming lands in the Palouse." Meanwhile, Seltice indicated that some DeSmet area tribal members, such as Andrew Youmas, continued to rely significantly on elk hunting in the Clearwater Mountains into the early 1900s.[325] Woodworth-Ney likewise reported that "some families continued to reside in the lake and river regions well into the twentieth century." Moreover, she argued that "the actual number of surplus-producing farms" in the DeSmet area during the late 1870s was "difficult to ascertain," suggesting that even successful tribal farmers did not rely entirely

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[321] Palmer, "Indian Pioneers," 27, 30–33, USA-CDA00021693. As Palmer noted, the end of buffalo hunting by the Coeur d'Alene—which occurred in 1876—likely also played a role in the relocation to DeSmet.

[322] Woodworth-Ney, *Mapping Identity*, 89, 101, USA-CDA00021719.

[323] John A. Simms, Indian Agent, Colville Agency, to Commissioner of Indian Affairs, August 1, 1879, in ARCIA 1879, 247, USA-CDA00004236.

[324] Simms to the Commissioner of Indian Affairs, August 18, 1880, in ARCIA 1880, 276, USA-CDA00004251.

[325] Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 235, 244–246, USA-CDA00001740.

on agriculture for their subsistence. In short, despite the relocation of many Coeur d'Alene families to the Hangman Creek valley, "tribal waters continued to form the soul of the tribal landscape."[326]

Conclusion

The creation of the Coeur d'Alene Indian Reservation between 1867 and 1873 resulted from a confluence of factors that reflected the broad homeland purposes required by tribal members—purposes that included the ability to fish, hunt, gather, and continue traditional lifeways, while also incorporating agriculture into tribal subsistence patterns. The reservation's initial establishment in 1867 occurred without consultation from the Coeur d'Alenes, and it appears that tribal members were unaware of its creation until 1871. Upon learning of the 1867 reservation boundaries, tribal leaders immediately petitioned the Indian Office, objecting to its inadequate size, as well as its exclusion of tribal fisheries and village sites along Lake Coeur d'Alene and the Coeur d'Alene, St. Joe, and Spokane Rivers. Also excluded were lands near the Cataldo Mission, where some tribal members had begun cultivating small farms. Federal and military officials joined the Coeur d'Alenes in their opposition to the 1867 boundaries and called for an expanded reservation that would encompass tribal fisheries, hunting areas, camas grounds, and village sites, in addition to lands needed for agricultural development.

These complaints led ultimately to the appointment of a commission in 1873 to visit the Coeur d'Alene Indians and other regional tribes to address Indian land issues in northern Idaho and northeastern Washington. The commission's negotiations resulted in two separate agreements—the first of which was negotiated on July 28, 1873, with the Coeur d'Alenes, providing for the expansion of the 1867 reservation along the lines requested by tribal leaders the previous November. The second was an accord that called for newly drawn boundaries for the Colville Reservation east of the Columbia River, which the commissioners believed would be large enough for ten regional tribes including the Coeur d'Alenes. Neither agreement received congressional approval. However, on November 8, 1873, President Grant took executive action to expand the boundaries of the Coeur d'Alene Reservation along the borders outlined in the July 1873 agreement.

The correspondence leading up to the creation of the 1873 reservation, along with the comments made by the commissioners who negotiated the July 1873 agreement, reveal that the purposes for enlarging the Coeur d'Alene Reservation centered on the need to provide a sufficient homeland for the Tribe. As tribal leaders and federal officials pointed out, the 1867 reservation was not large enough for the Coeur d'Alenes. Since it excluded their principal fisheries, village sites, and waterways, as well as some of their agricultural lands, the 1867 reservation threatened to undermine tribal members' existence and lifeways. For most tribal members in the early 1870s, these lifeways included both small-scale agriculture and a continued reliance on fishing, hunting, gathering, and other traditional subsistence activities. Recognizing the need to create a homeland for the

[326] Woodworth-Ney, *Mapping Identity*, 90, USA-CDA00021719.

Coeur d'Alenes that would enable the continuance of these diverse subsistence patterns, the Shanks Commission—and, later, President Grant—agreed to expand the Coeur d'Alene Reservation in 1873 to include all of Lake Coeur d'Alene, as well as significant stretches of the Coeur d'Alene, St. Joe, and Spokane Rivers.

5. Confirming and Altering Coeur d'Alene Reservation Boundaries, 1880s-1890s

Mining Activity, Timber Trespass, and the 1887 Agreement

Trespass Issues and the Survey of the 1873 Coeur d'Alene Reservation

Despite the promulgation of the 1873 executive order creating the Coeur d'Alene Reservation, the reservation's boundaries remained unsurveyed into the 1880s, leaving the lands susceptible to trespass and non-Indian encroachment. Although the completion of the Mullan Road in 1863 had led to increased travel through Coeur d'Alene territory and although gold strikes in the late 1860s along the North Fork of the Clearwater River had encouraged mining activity in the region, the traditional lands occupied by the Coeur d'Alene Indians remained only minimally impacted by non-Indians through the 1870s. This changed dramatically in the early 1880s, with gold discoveries along the North Fork of the Coeur d'Alene River, the construction of the Northern Pacific Railroad, and increased timber harvesting along the heavily forested slopes east of Lake Coeur d'Alene.[327]

The annual reports of the commissioner of Indian affairs during the early 1880s reflected the increased impact of trespass-related issues, as well as tribal members' desire for greater protection of the 1873 reservation boundaries. In his 1881 report to the commissioner, Colville Agent John Simms noted that the Coeur d'Alenes were "far in advance of the other tribes" in their agricultural pursuits. Stating that tribal members were "wholly unaided by the government," Simms reported that "all they ask for is to have their present reservation made secure to them" through a survey that would "permanently locate" its boundaries.[328] By August 1882, the Coeur d'Alenes had a reported "5,000 acres under cultivation," with "many well-fenced farms." However, the 1873 boundaries remained unsurveyed, leaving reservation lands vulnerable to trespass. To address this, Simms told the Indian Office, "[I]t is imperative that the boundaries of the Coeur d'Alene Indian Reservation should be defined by actual survey immediately, in order to avoid trouble with whites, who take advantage of undefined lines to encroach upon the reservation."[329]

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[327] Palmer, "Indian Pioneers," 29, USA-CDA00021693; Woodworth-Ney, *Mapping Identity*, 105, USA-CDA00021719.

[328] John Simms, Indian Agent, Colville Agency, to the Commissioner of Indian Affairs, August 18, 1881, in ARCIA 1881, 217, USA-CDA00004269.

[329] Simms to the Commissioner of Indian Affairs, August 31, 1882, in ARCIA 1882, 212–213, USA-CDA00004281.

While the reservation remained unsurveyed during the early 1880s, trespass issues worsened. Discussing these problems in his 1882 annual report, the Coeur d'Alenes' resident farmer and former Nez Perce agent, James O'Neill, told Simms that non-Indian lumbermen were harvesting "great quantities of timber" along the eastern edge of the reservation, which was a "great cause of complaint" among tribal members. He noted that the boundary line between the recently abandoned Cataldo Mission and the DeSmet area was "so indefinite" that he had difficulty determining "who is in the right or wrong" regarding this alleged timber trespass. To remedy the situation, O'Neill requested Simms to "urge upon the department the imperative necessity of having the line run so that serious trouble may be avoided."[330] Although timber trespassers continued to occasion "much annoyance" in 1883, Simms hoped the problem would finally be "remedied" upon the completion of a recently authorized GLO survey that year.[331]

Despite the completion of this survey by the autumn of 1883, O'Neill reported that there remained "some dissatisfaction in regard to the boundary line," since the "monuments and marks" placed by the surveyor were not "as definitely defined as they ought to be." Moreover, by the following year, the Coeur d'Alenes were not only contending with timber trespassers on their reservation but also with a "great rush to the Coeur d'Alene gold mines" that began in the spring of 1884.[332] Newly appointed Colville Agent Sidney Waters reported that the "mining excitement in the Coeur d'Alene Mountains" had "attracted many people to the vicinity of the Coeur d'Alene Reservation." While he claimed that the miners "passing over the reserve have not interfered with the Indians," the "cutting of trees" within and along the reservation boundaries continued to require his frequent "attention."[333]

Meanwhile, non-Indian settlers were also threatening to encroach upon tribal members' newly established farms in the DeSmet area. Informing Simms about this issue in October 1883, Andrew Seltice and eleven other Coeur d'Alene leaders reported that a surveyor told them that "some whites were getting up a petition to have the government open the very best portion of this reservation & send us to the other side of the St. Joseph river." Stating that the tribal members who resided in the DeSmet area "till our land, raise crops, keep herds of cattle & thus provide for ourselves," Seltice and the other petitioners indicated that they relied on the lands that the whites were threatening to

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[330] James O'Neill, Resident Farmer, Coeur d'Alene Reservation, to Simms, August 24, 1882, in ARCIA 1882, 214, USA-CDA00004281. Note that Woodworth-Ney argued that O'Neill was a "resident" farmer in name only, residing not on the Coeur d'Alene Reservation but rather at the Colville Agency headquarters in Chewelah, Washington, and visiting the Coeur d'Alenes only "'at convenient intervals,' perhaps three or four times a year." See Woodworth-Ney, *Mapping Identity*, 107, USA-CDA00021719. For O'Neill's status as the late 1860s Nez Perce agent who assisted in the establishment of the 1867 Coeur d'Alene Reservation, see O'Neil to Sidney D. Waters, Indian Agent, Colville Agency, in Senate, *Letter from the Acting Secretary of the Interior Transmitting in Response to Senate Resolution, March 30, 1886, Report upon the Claims of Certain Indians for Compensation for Lands*, 49th Congress, 1st session, April 9, 1886, S. Ex. Doc. 122, serial 2340, 12, USA-CDA00003919.

[331] Simms to the Commissioner of Indian Affairs, August 15, 1883, in ARCIA 1883, 200, USA-CDA00004290.

[332] O'Neill to Sidney D. Waters, Indian Agent, Colville Agency, July 26, 1884, in ARCIA 1884, 205–206, USA-CDA00004299.

[333] Waters to the Commissioner of Indian Affairs, August 12, 1884, in ARCIA 1884, 203, USA-CDA00004299.

"take away" for "our food, our clothing & whatever we are in need of." They then asked Simms rhetorically, "Are we squirrels or the like animals, thus to drive us into a wilderness, where nothing can be raised to support people? Or are we fishes, that we should be made to live in the water? We say that we are men, as well as any whites are."[334]

Responding to this letter on November 14, 1883, Commissioner of Indian Affairs Hiram Price told Agent Waters that there was no reason for the Coeur d'Alenes to "fear that some steps are about to be taken looking to the opening of a portion of their reservation to white settlement." On the contrary, Price indicated that there was "no effort" being undertaken by federal officials to open the 1873 reservation to non-Indians. Moreover, he stated that the Indian Office would oppose any such attempt "unless, for reasons that do not now appear, their well being would be promoted thereby, in which case it is likely the Indians themselves would be consulted before any decisive steps were taken."[335]

Prior to receiving Price's letter, Waters and O'Neill visited the Coeur d'Alenes and "assured them that no petition of the whites would have any effect," nor would such a petition "result in driving them from their lands and homes." Waters surmised that the reported attempt of non-Indian settlers to encroach on the DeSmet area was likely a "speculative movement on the part of the whites to obtain a part of their [the Coeur d'Alenes'] reservation." Remarking that tribal members were "far advanced over their white neighbors" in their agricultural endeavors, the agent again noted that the Coeur d'Alenes "only ask that they be made secure in their homes, so that their lands may not be taken from them." He also indicated that Seltice had proposed that the neighboring Spokane Indians should "settle on his reservation," a proposition that met with the Indian Office's "hearty approval" and that the commissioner viewed as "highly commendable."[336]

The Coeur d'Alene Indians who held farms in the Hangman Creek valley were not the only tribal members who faced the threat of encroachment by non-Indians during the 1880s. As Woodworth-Ney has pointed out, not all Coeur d'Alenes were farmers, nor had all tribal members moved to the southern portion of the 1873 reservation in the vicinity of the new DeSmet Mission. Instead, as indicated above, "some families continued to reside in the lake and river regions well into the twentieth century." By the mid-1880s, the increased mining activities that occurred in the wake

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[334] Andrew Seltis and Eleven Other Coeur d'Alene Chiefs to John J. Simms, U.S. Indian Agent, October 21, 1883, Letter 20347-1883, Letters Received by the Office of Indian Affairs, 1881–1907 [LR 1881–1907], Record Group 75: Records of the Bureau of Indian Affairs [RG 75], National Archives and Records Administration, Washington, D.C. [NARA I], USA-CDA00005199.

[335] H. Price, Commissioner of Indian Affairs, to Sidney D. Waters, Indian Agent, Colville Agency, November 14, 1883, Land Division Letter Book 118, pp. 372–374, Volume 59, Land Division, Entry 96: Letters Sent by the Office of Indian Affairs, 1881–1907 [LS 1881–1907], RG 75, NARA I, USA-CDA00021545.

[336] Waters to Price, November 10, 1883, Letter 21283-1883, LR 1881–1907, RG 75, NARA I, USA-CDA00005213; Price to Waters, November 24, 1883, Land Division Letter Book 119, pp. 105–107, Volume 60, LS 1881–1907, RG 75, NARA I, USA-CDA00021549. Note that, although Price initially inquired whether the Coeur d'Alenes' October 21, 1883, letter was "genuine," Waters assured him that his predecessor had "received it from the Indians and that it was genuine." See Waters to Price, November 24, 1883, Letter 22027-1883, LR 1881–1907, RG 75, NARA I, USA-CDA00005208.

of gold strikes along the North Fork of the Coeur d'Alene River led Idaho territorial officials to request the opening of the lands still occupied by Coeur d'Alene families who resided in these "lake and river regions."[337]

In April 1884, Idaho Congressional Delegate T. F. Singiser wrote to Secretary of the Interior Henry Teller requesting that the northeastern corner of the 1873 reservation—the lands lying east of Lake Coeur d'Alene between Wolf Lodge Creek and the St. Joe River—"be restored to the public domain, and opened for settlement." Incorrectly asserting that this area "is not now, nor never has been occupied by the Indians," Singiser argued that keeping this area within the reservation would "prove a fruitful source of trouble to the miners and settlers" due to "the present mining excitement in the Coeur d'Alene Mountains." Ignoring (or unaware of) the fact that numerous Coeur d'Alene village sites were traditionally located along this stretch of the St. Joe River, he further maintained that these lands were not "in the slightest degree beneficial or useful to the Indians."[338]

The Indian Office's June 1884 response again underscored the government's policy to maintain the existing boundaries of the 1873 reservation. Acting Commissioner E. L. Stevens told Singiser that, "as at present informed, this Office is decidedly opposed to reducing the reservation in question in any quarter." Stating that government officials were planning to relocate "the scattering Indians at Spokane Falls and vicinity" on the Coeur d'Alene Reservation, Stevens indicated that it was "likely that all the good land will be needed for that and other purposes now held in view." Moreover, he noted that the Indian Office had recently expended government funds to survey "the outboundaries of the reservation," and he did not deem it "desirable that any change should be made at the present time."[339]

Despite these unambiguous statements from the Indian Office, reports continued to circulate through the mid-1880s that led tribal leaders to express concern about the possibility of federal officials opening the 1873 reservation to non-Indian settlement. Andrew Seltice wrote to the commissioner in August 1884, telling him that white settlers in northern Idaho continued to be "envious" of the Coeur d'Alene Indians' "fine large farms" and would "not cease repeating that the reservation is shortly to be thrown open." Although he discounted these reports as "invent[ed] stories," some tribal members were prone to "believe all they hear" and remained anxious that they would be "sent beyond the St. Joe or at least crowded in the Hangman Creek section." Because of

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[337] Woodworth-Ney, *Mapping Identity*, 90, 108, 111, USA-CDA00021719. Notably, Woodworth-Ney asserted that the dearth of reported information about the tribal members who continued to live in the "lake and river regions" was not an "indication that such people did not exist but rather constitutes further evidence of the incomplete record available to Colville agents." Moreover, she argued that Indian agency reports from the 1880s and 1890s "bolstered the image of the Coeur d'Alenes as entirely Christian and agricultural" because they "offered no indication of tribal divisions" that still existed.

[338] T. F. Singiser, Delegate from Idaho, to H. M. Teller, Secretary of the Interior, April 25, 1884, Letter 8588-1884, LR 1881–1907, RG 75, NARA I, USA-CDA00005261.

[339] E. L. Stevens, Acting Commissioner of Indian Affairs, to T. F. Singiser, House of Representatives, June 2, 1884, Land Division Letter Book 126, pp. 146–148, Volume 63, LS 1881–1907, RG 75, NARA I, USA-CDA00021553.

this, Seltice asked Price to "assure them once more that they have nothing to fear, that the reservation will not be opened but with our consent, when we shall be mature for the measure."[340]

Transmitting Seltice's letter to Price on September 6, 1884, Agent Waters requested the commissioner to "reassur[e] the Indians that they will not be dispossessed of their lands without they [*sic*] first have a chance to be heard." Although Waters told them "to mind nothing about what their jealous white neighbors say, or what the local papers contain," the agent's statements did not assuage tribal members' concerns.[341] In an effort to further reassure the Coeur d'Alenes, Price replied to Waters in early October, telling him to "say to Chief Seltis that there is no effort being made through this Department by anyone looking to the reduction of their reservation." He additionally stated that the "assurances conveyed" to the Indians in his November 14, 1883, letter "may be repeated" and that the Indian Office's policy of maintaining the 1873 reservation boundaries "holds good today."[342]

Negotiating to Confirm the 1873 Reservation Boundaries, 1884–1887

Trespass was not the only issue of concern to Coeur d'Alene leaders in the mid-1880s. Due to Congress's failure to ratify their July 1873 agreement, the Coeur d'Alene Indians had not yet been compensated for or relinquished title to more than 3 million acres of aboriginal lands located outside the 1873 reservation boundaries. Waters reported to the Indian Office on this issue in November 1884, discussing it in conjunction with a proposal to relocate the Spokane and Pend d'Oreille Indians onto the Coeur d'Alene Reservation. He urged Price to obtain funding for a commission to "enter into proper treaty negotiations" with these nontreaty tribes, "with a view of ceding to the United States such portions of their lands as are now occupied or may be needed by the whites, and with the view of establishing all of said tribes upon the vacant lands of the present Coeur d'Alene Indian Reservation." Calling the Coeur d'Alenes "the peers of any farmers on the Pacific slope," Waters argued that his proposal would encourage the Spokanes and Pend d'Oreilles to "imitate the example of their industrious and thrifty kinsmen."[343]

Although Price considered Waters's recommendation "very desirable" and made efforts to secure an appropriation, the commissioner was unable to convince Congress to allocate the necessary funds for such a commission. To further support his recommendation, Waters sent a petition signed by more than 40 Coeur d'Alene tribal members in March 1885 requesting that "their

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[340] Andrew Seltice, Head Chief of the Coeur d'Alene Indians, to H. Price, Commissioner of Indian Affairs, August 13, 1884, Letter 17750-1884, LR 1881–1907, RG 75, NARA I, USA-CDA00005287.

[341] Sidney D. Waters, Indian Agent, Colville Agency, to Price, September 6, 1884, Letter 17750-1884, LR 1881–1907, RG 75, NARA I, USA-CDA00005290.

[342] Price to Waters, October 2, 1884, Land Division Letter Book 130, p. 187, Volume 65, LS 1881–1907, RG 75, NARA I, USA-CDA00021557.

[343] Waters to Price, November 29, 1884, in Senate, *Letter from the Acting Secretary*, 49th Congress, 1st session, April 9, 1886, S. Ex. Doc. 122, serial 2340, 14–15, USA-CDA00003919.

present reserve may be confirmed to them" and arguing that they should be "properly and fully compensated for such portion of their lands not now reserved to them." In his transmittal letter, Waters told Price that the 1873 reservation was being "looked upon with longing eyes by the whites, who are fast settling up the country owned by these Indians, for they have never been recompensed for a foot of it." Noting that the Coeur d'Alenes were "continually hearing of petitions being circulated praying Congress to open" the reservation, Waters stated, "I cannot too earnestly plead for these Indians, and pray that their petition may be granted."[344]

In their March 1885 petition, tribal leaders asserted that their "rights as Indians" had been "very largely neglected," which resulted in their traditional lands being "occupied by the whites, and without any compensation or indemnity ever having been given them therefor." They further argued that their aboriginal territory included an array of "valuable" resources, including "numerous and valuable wheat farms"; forests that supplied lumber to the "numerous saw-mills" near Spokane; "gold, silver, and lead mines"; Lake Coeur d'Alene and the Coeur d'Alene River, "upon the waters of which steamers now run"; and "numerous thriving towns and villages," many of which were served by the "line of the Northern Pacific Railroad from near Spokane to the Pend d'Oreille Lake." Claiming that they had received no "remuneration or indemnity" for these lands, "except that portion now by them occupied as the present Coeur d'Alene Reservation," tribal leaders demanded that a commission visit and negotiate with them for the following purposes:

> [T]o provide for our present and future wants, and to make with us a proper treaty of peace and friendship, and enter into such proper business negotiations under and by which your petitioners may be properly and fully compensated for such portion of their lands not now reserved to them; that their present reserve may be confirmed to them, except such as may be confirmed to the missionary fathers and sisters, and that ample provision be made by the United States by which their compensation shall be annually made them partly in stock, tools, mills, and mechanical instruction by proper mechanics, for the permanent benefit of every member, young and old, male and female, of the Coeur d'Alene tribe of Indians.[345]

Outlining the boundaries of the aboriginal lands for which they requested compensation, the Coeur d'Alene petitioners wrote:

> The boundaries of the country owned by your petitioners, and by their forefathers from time immemorial, are as follows, to wit: Beginning at a point on the Pelouze River west of a high butte now known as and called Steptoe Butte; thence extending northwestwardly to the Spokane River at a point on its north bank formerly resided at by Antoine Plant, a half-breed Indian; thence extending to the lower end of the Pend d'Oreille Lake; thence eastwardly to the summit of the Coeur d'Alene Mountains, separating the waters of the Flathead or Missoula River from those of the Coeur d'Alene and Saint Joseph's River; thence southerly along the summit of said mountains to the most southern

[344] Price to the Secretary of the Interior, February 4, 1885; Price to Waters, February 26, 1885; Andrew Seltice, et al., to the President of the United States, the Secretary of the Interior, and the Commissioner of Indian Affairs, March 23, 1885; Price to Waters, March 26, 1885; all in Senate, *Letter from the Acting Secretary*, 49th Congress, 1st session, April 9, 1886, S. Ex. Doc. 122, serial 2340, 8–11, 13–14, USA-CDA00003919.

[345] Seltice, et al., to the President, et al., March 23, 1885, in Senate, *Letter from the Acting Secretary*, 49th Congress, 1st session, April 9, 1886, S. Ex. Doc. 122, serial 2340, 9–10, USA-CDA00003919.

> thereof, whence flow the waters of the Pelouze River; thence westwardly along the southern rim of the water-shed of the waters of the Pelouze River to the point of beginning.[346]

The Tribe's petition and the letters supporting it also provided information about the Coeur d'Alenes' recent move to the DeSmet area and the location and condition of their farms. For example, the tribal petitioners reported that they relocated "in 1877, to the place they now occupy." Resident Farmer James O'Neill gave similar dates for the move to the Hangman Creek valley, stating that Nicodemus was among the first who "commenced farming" in the region in 1875. He was followed by "two or three more" who "opened small farms" in the spring of 1876. By "1877 or 1878," the Coeur d'Alenes had reportedly "all commenced making small farms" in the DeSmet area and other lands within the reserve. Notably, O'Neill indicated that not all tribal farms were located in the southern tier of the 1873 reservation, reporting that there were also "farms near the Spokane River, near Crowley's bridge" that were "nearly 40 miles" from the newly established DeSmet Mission.[347]

With funding for the proposed commission to negotiate with the Coeur d'Alenes and other regional tribes not forthcoming from Congress, Captain John Mullan—who was, by 1886, a member of the Bureau of Catholic Indian Missions—added his voice to the growing chorus of supporters for the proposed negotiations. Mullan chided the United States for "fail[ing] to compensate" the Coeur d'Alene Indians and other Idaho and Washington tribes "for the large district of country which was then, and ever theretofore had been, their land and that of their forefathers." Calling this "a grave injustice" to the Indians, he argued strongly in favor of appointing a commission to negotiate with the nontreaty tribes in the Interior Northwest for "a proper and just treaty" under which "an adequate compensation could be had for the value of the lands of which, in my opinion, they have been so wrongfully divested."[348]

Congress finally acted on the matter in May 1886 by inserting a $15,000 appropriation in that year's Indian Appropriations Act, part of which was intended to defray the costs of negotiating with the Coeur d'Alenes "for the cession of their lands outside the limits of the present Coeur d'Alene reservation." The appropriation was also intended to cover talks with the Spokane and Pend d'Oreille Indians for both "the cession of their lands to the United States" and "for their removal to the Colville, Jocko, or Coeur d'Alene reservations, with the consent of the Indians on said reservations." Additional negotiations were authorized with tribes in Minnesota, North Dakota, and

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[346] Seltice, et al., to the President, et al., March 23, 1885, in Senate, *Letter from the Acting Secretary*, 49th Congress, 1st session, April 9, 1886, S. Ex. Doc. 122, serial 2340, 9, USA-CDA00003919.

[347] James O'Neil, Resident Farmer, Coeur d'Alene, to Sidney D. Waters, Indian Agent, Colville Agency, March 26, 1885; Seltice, et al., to the President, et al., March 23, 1885; both in Senate, *Letter from the Acting Secretary*, 49th Congress, 1st session, April 9, 1886, S. Ex. Doc. 122, serial 2340, 10, 12, USA-CDA00003919.

[348] John Mullan, Commissioner, Bureau of Catholic Indian Missions, to the Bureau of Catholic Indian Missions, February 5, 1886, in Senate, *Letter from the Acting Secretary*, 49th Congress, 1st session, April 9, 1886, S. Ex. Doc. 122, serial 2340, 6, USA-CDA00003919.

Montana. The law further stipulated that any agreement made with these tribes would not "take effect until ratified by Congress."[349]

At the end of March 1887, a three-member commission consisting of John Wright, Jarred Daniels, and Henry Andrews met with Coeur d'Alene leaders at the DeSmet Mission. Opening the council on March 23, the commissioners—collectively known as the Northwest Indian Commission—expressed awe at the Indians' "condition and the character of your reservation," telling tribal members that their farms were far "ahead of the whites." They also reassured the Coeur d'Alenes that they had not come "to force you to do anything," but rather "to ask your consent" to allow other tribes to settle on the 1873 reservation and to negotiate an agreement under which the Tribe would relinquish the aboriginal lands lying outside their reservation for adequate compensation. Presenting the Coeur d'Alenes' March 1885 petition, in which they had outlined their territorial claims, the commissioners told tribal leaders, "We wish to do right about the claim; that was one purpose for which we were sent to you."[350]

Discussing the proposed relinquishment of the Tribe's traditional lands lying outside the 1873 reservation, Coeur d'Alene Chief Andrew Seltice told the commissioners, "This land was very dear to us, but we have given it up to the whites." Stating that their reservation included "only a small part" of their traditional territory—which encompassed "more than 4,000,000 acres," according to Seltice—the head chief requested the commissioners to ensure that their reservation lands would be "preserved forever." Continuing, Seltice stated, "I plead with you, I implore you, I call on the Great Father, who will hear me, preserve for us and our children forever this reservation, where are our schools, our churches, our homes, our graves, our hearts." He then told the commissioners, "[N]either money nor land outside do we value compared with this reservation. Make the paper strong; make it so strong that we and all Indians living on it shall have it forever."[351]

These negotiations led the Northwest Indian Commission to insert a provision in the March 1887 agreement with the Coeur d'Alenes stipulating that "their reservation shall be held forever as Indian land" and that it would not be opened "without the consent of the Indians." Discussing the genesis of this proviso (Article 5) in their report to Commissioner of Indian Affairs J. D. C. Atkins, the commissioners clearly outlined the reasons why they included it in the 1887 agreement:

> The anxiety of the Indians about their reservation and their fears that it might in some way be taken away from them, their unexampled good conduct, their friendship for the neighboring whites, displayed on a late memorable occasion, their rapid advancement in self-support and civilization unaided by the Government, their willingness to allow their reservation to be filled up with Indians, the confidence they repose in the Government to settle their claim on its own terms, all conspired to cause us to put in the fifth clause, which provides that *their reservation shall be held forever as Indian land as*

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[349] Act of May 15, 1886, 24 Stat. 29 at 44, USA-CDA00021560.

[350] Council with Coeur d'Alenes, March 23–26, 1887, in House, *Reduction of Indian Reservations*, 50th Congress, 1st session, January 9, 1888, H. Ex. Doc. 63, serial 2557, 60–62, USA-CDA00003786.

[351] Council with Coeur d'Alenes, March 23–26, 1887, in House, *Reduction of Indian Reservations*, 50th Congress, 1st session, January 9, 1888, H. Ex. Doc. 63, serial 2557, 64, USA-CDA00003786.

> *homes for the Coeur d'Alenes and such other Indians as may be removed thereto*, and that no part of the reservation shall ever be sold or occupied, open to white settlement, or otherwise disposed of without the consent of the Indians.
>
> It may be said that this was unnecessary, inasmuch as no such thing would happen; but the loss of their former possessions and other causes had so excited their fears that it was concluded, in order to allay suspicion, and in as strong a manner as possible, bind the Government to that good faith which the Indian prizes so highly and which he thinks has been violated so frequently.[352]

Signed on March 26, 1887, the agreement provided for the Coeur d'Alenes to "cede, grant, relinquish, and quitclaim" their "right, title, and claim" to their aboriginal lands in "Washington, Idaho, and Montana," except those areas lying within the boundaries of the 1873 reservation. As noted above, Article 5 stipulated that these reservation lands "*shall be held forever as Indian land and as homes for the Coeur d'Alene Indians*, now residing on said reservation, and the Spokane or other Indians who may be removed to said reservation under this agreement." Moreover, no reserved lands could be "sold, occupied, open to white settlement, or otherwise disposed of without the consent of the Indians residing on said reservation." Regarding the removal of other tribes to the 1873 reservation, the 1887 agreement provided for the Spokane, Pend d'Oreille ("Calespels"), and any other non-reservation Indians under the Colville Agency's jurisdiction to be relocated there.[353]

As compensation, the agreement required the United States to "expend for the benefit of said Coeur d'Alene Indians" $150,000, "under the direction of the Secretary of the Interior." Part of this money would be used to build "a saw and grist mill" and to employ "an engineer and miller," as well as funding "the purchase of such useful and necessary articles as shall best promote the progress, comfort, improvement, education, and civilization" of tribal members. The government additionally promised to "furnish and employ" on the reservation "a competent physician, medicines, a blacksmith, and carpenter." Notably, the Northwest Indian Commission reported that they used a copy of the July 28, 1873, agreement regarding the Coeur d'Alene Reservation to guide them with respect to "what amount of compensation should be given as consideration for the lost lands." Like the 1873 agreement, the March 1887 agreement with the Coeur d'Alenes required ratification by Congress before it was "binding on either party."[354]

By the end of 1887, both Commissioner Atkins and Secretary of the Interior L. Q. C. Lamar had thrown their support behind the seven agreements negotiated by the Northwest Indian Commission with tribes in Idaho, Montana, Washington, North Dakota, and Minnesota. Discussing the Coeur d'Alene agreement, Atkins noted that it provided for the 1873 reservation to be "forever held

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[352] Report of Northwest Indian Commission, June 29, 1887, in House, *Reduction of Indian Reservations*, 50th Congress, 1st session, January 9, 1888, H. Ex. Doc. 63, serial 2557, 39, USA-CDA00003786. Emphasis added.

[353] Agreement with Coeur d'Alene, March 26, 1887, in House, *Reduction of Indian Reservations*, 50th Congress, 1st session, January 9, 1888, H. Ex. Doc. 63, serial 2557, 54, USA-CDA00003786. Emphasis added.

[354] Agreement with Coeur d'Alene, March 26, 1887; Report of Northwest Indian Commission, June 29, 1887; both in House, *Reduction of Indian Reservations*, 50th Congress, 1st session, January 9, 1888, H. Ex. Doc. 63, serial 2557, 39, 54–55, USA-CDA00003786. The commissioners also indicated that the boundaries of the Coeur d'Alenes' aboriginal territory, as outlined in the March 1885 petition, "substantially agree" with the area described in the July 1873 agremeent.

as Indian lands, for the home of the Coeur d'Alene and other bands," and that the lands therein could "never be sold or otherwise disposed of without their consent." Reporting that the commissioners had commended the Coeur d'Alenes "in the highest terms for industry, thrift, and sobriety," Atkins remarked that "a better ordered or behaved community of Indians can nowhere be found." He thus urged the "speedy ratification" of the March 1887 agreement, along with the others negotiated by the Northwest Indian Commission. Secretary Lamar agreed, telling President Grover Cleveland (who transmitted the agreements to Congress) that their ratification would "remove some serious hindrances to the contentment, the permanent settlement, and the more rapid advancement in civilization of the tribes and bands who are parties thereto."[355]

Ratification of the 1887 Agreement and the Continued Use of Coeur d'Alene Waterways, 1888-1900

Initial Congressional Consideration of the 1887 Agreement

Despite the Indian Office's and the Interior Department's strong support for the March 1887 agreement with the Coeur d'Alenes, it took Congress four years to approve the measure. Two weeks after President Cleveland sent the agreements negotiated by the Northwest Indian Commission to Congress, Oregon Senator John Mitchell submitted a resolution requesting information from Secretary Lamar about "the extent of the present area and boundaries of the Coeur d'Alene Indian Reservation" and whether Lamar deemed it "advisable to throw any portion of such reservation open to occupation and settlement under the mineral laws of the United States, and, if so, precisely what portion." In reporting on these issues, the secretary was additionally requested to inform Congress "what proportion of said reservation is agricultural, grazing, and mineral land." Mitchell's resolution also asked for data about the extent to which the 1873 reservation encompassed "any portion" of the "navigable waters" in Idaho and, if so, whether Lamar considered it "advisable to release any of the navigable waters aforesaid from the limits of such reservation."[356]

The two paragraphs preceding these directives to Secretary Lamar revealed Senator Mitchell's intent in submitting the resolution to Congress. For example, after incorrectly noting that the 1873 reservation "embraces 480,000 acres of land," Mitchell stated that there were only "about 476 Indians in the tribe now occupying such reservation, or more than 1,000 acres to each man, woman, and child." He also expressed concern that "all the navigable waters" of Lake Coeur d'Alene and the

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[355] J. D. C. Atkins, Commissioner of Indian Affairs, to the Secretary of the Interior, December 13, 1887; L. Q. C. Lamar, Secretary of the Interior, to the President, December 30, 1887; both in House, *Reduction of Indian Reservations*, 50th Congress, 1st session, January 9, 1888, H. Ex. Doc. 63, serial 2557, 3, 9, 11, USA-CDA00003786.

[356] Senate, *Resolution*, 50th Congress, 1st session, January 23, 1888, S. Misc. Doc. 36, serial 2516, USA-CDA00003947. For the date on which President Cleveland submitted the Northwest Indian Commission's agreements to Congress, see Grover Cleveland, President, to the Senate and House of Representatives, January 9, 1888, in House, *Reduction of Indian Reservations*, 50th Congress, 1st session, January 9, 1888, H. Ex. Doc. 63, serial 2557, 1, USA-CDA00003786.

Coeur d'Alene River—as well as "about 20 miles of the navigable part of Saint Joseph River, and part of Saint Mary's"—were "embraced within this reservation, except a shore-line of about 3½ miles at the north end of the lake." According to Mitchell, the lake and these rivers "constitute the most important highways of commerce in the Territory of Idaho, and are in fact the only navigable waters, except Snake River, now used for steam-boat navigation in the Territory." As long as these waterways remained within the Coeur d'Alene Reservation, Mitchell indicated that "all boats" and "all persons" plying these waters were "trespassers" who remained "subject to the laws governing the Indian country."[357]

In addition to opening a portion of the navigable waters within the Coeur d'Alene Reservation, Mitchell also sought to pave the way for expanded mining activities in the northeastern corner of the 1873 reservation. Claiming that the region lying east of Lake Coeur d'Alene and situated between the St. Joe and Coeur d'Alene Rivers was "a territory rich in the precious metals," Mitchell maintained that these lands were "of no real use or benefit to the Indians." The senator's statement reflected his lack of knowledge about the Coeur d'Alene tribal members who had not moved to the DeSmet area and continued to reside in the "lake and river regions"—a fact that was further shown by his assertion that all "the Indians now on such reservation are located in the extreme southwest corner of the same around DeSmedt [sic] Mission, near the town of Farmington, in Washington Territory, where the land is good for agriculture."[358]

The Interior Department responded to Mitchell's resolution in February 1888, submitting a report from Commissioner Atkins that both replied to the specific questions posed in the resolution and provided a brief history of the Coeur d'Alene Indians and the establishment of their reservation. After stating that the Coeur d'Alene Reservation encompassed nearly 600,000 acres, Atkins indicated that this area "embrace[d] only a portion of the lands to which they laid claim." Moreover, the Tribe's aboriginal land claims had been, according to the commissioner, "recognized in various ways and at sundry times," including in the March 1887 agreement and through Congress's authorization of negotiations with the Tribe in May 1886. Atkins thus concluded unequivocally that "these Indians have all the original Indian rights in the soil they occupy."[359]

Discussing the character of the lands included in the reservation, the commissioner reported that he could make merely a "rough estimate" since only "a very small portion" of these lands had been surveyed. Basing his estimate on "a rude sketch of the reservation prepared by the farmer in charge,"

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[357] Senate, *Resolution*, 50th Congress, 1st session, January 23, 1888, S. Misc. Doc. 36, serial 2516, USA-CDA00003947.

[358] Senate, *Resolution*, 50th Congress, 1st session, January 23, 1888, S. Misc. Doc. 36, serial 2516, USA-CDA00003947. For the reference to the Coeur d'Alenes who continued to reside in the "lake and river regions" within the Tribe's aboriginal territory, see Woodworth-Ney, *Mapping Identity*, 90, USA-CDA00021719.

[359] J. D. C. Atkins, Commissioner of Indian Affairs, to the Secretary of the Interior, February 7, 1888, in Senate, *Letter from the Secretary of the Interior, Transmitting, in Response to Senate Resolution of January 25, 1888, Information About the Coeur d'Alene Indian Reservation, in Idaho*, 50th Congress, 1st session, February 13, 1888, S. Ex. Doc. 76, serial 2510, 3, 7, USA-CDA00021564.

Atkins claimed that "a[t] least one-third of the entire area of the reservation is agricultural, one-third mountain and timber, and the remainder hilly and probably suitable for pasturage." While the bulk of the agricultural lands were situated along Hangman Creek, there was also a half-mile-wide strip of land on either side of the Coeur d'Alene River that the resident farmer "described as 'a fertile valley, overflowed every spring.'" A swath of pasture lands was located west of Lake Coeur d'Alene in the reservation's northwest corner, and the remainder of the reservation consisted primarily of "hilly" and "timbered" lands. Notably, an Interior Department inspector who visited the reservation in September 1887 was less optimistic about the arable acreage within the 1873 boundaries, estimating that they contained "not more than 50,000 or 60,000 acres susceptible of profitable cultivation."[360]

Atkins was able to provide Congress more detailed information about the extent of the navigable waterways within the Coeur d'Alene Reservation. According to the commissioner, all of Lake Coeur d'Alene, "except a very small fragment cut off by the north boundary of the reservation," was included in the 1873 boundaries. Meanwhile, the "entire" 25-mile course of the Coeur d'Alene River located inside the reservation was navigable. Although Atkins was uncertain whether the St. Joe River was navigable, he noted that available maps suggested it was "quite as large as the Coeur d'Alene River."[361] (See Figure 8)

With regard to the Coeur d'Alenes' willingness to "consent to a reasonable reduction of their reservation," Atkins believed they would do so "upon anything like just and reasonable terms." However, he informed the secretary that they remained "apprehensive" of increased settlement and mining activities on their lands, "lest in some way their reservation might be wrested from them." Atkins stated, "The one thing that has given them trouble has been the fear of losing their homes." Despite this, he believed their "advanced" condition would make them "likely to take a sensible view of any proposition for a change of the boundaries of their reservation which public necessity or convenience would seem to require." The commissioner asserted, though, that the Tribe was "deserving of fair and honest treatment." He also noted that the March 1887 agreement provided for the removal of at least 350–400 Spokane and Pend d'Oreille Indians to the Coeur d'Alene Reservation, which would nearly double the number of Indians residing there.[362]

Stating that he believed the 1873 reservation could be "materially diminished without detriment to the Indians," Atkins argued that the specific boundaries of any reduction "should be determined by negotiations with the Indians." That said, he noted that recent inspection reports had indicated that the "Wolf Lodge district" in the reservation's northeastern corner was a "very mountainous country" that contained "large quantities of valuable minerals" and already included numerous non-

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[360] Atkins to the Secretary of the Interior, February 7, 1888, in Senate, *Letter from the Secretary*, 50th Congress, 1st session, February 13, 1888, S. Ex. Doc. 76, serial 2510, 3–4, USA-CDA00021564.

[361] Atkins to the Secretary of the Interior, February 7, 1888, in Senate, *Letter from the Secretary*, 50th Congress, 1st session, February 13, 1888, S. Ex. Doc. 76, serial 2510, 3, USA-CDA00021564.

[362] Atkins to the Secretary of the Interior, February 7, 1888, in Senate, *Letter from the Secretary*, 50th Congress, 1st session, February 13, 1888, S. Ex. Doc. 76, serial 2510, 5, 7, USA-CDA00021564.

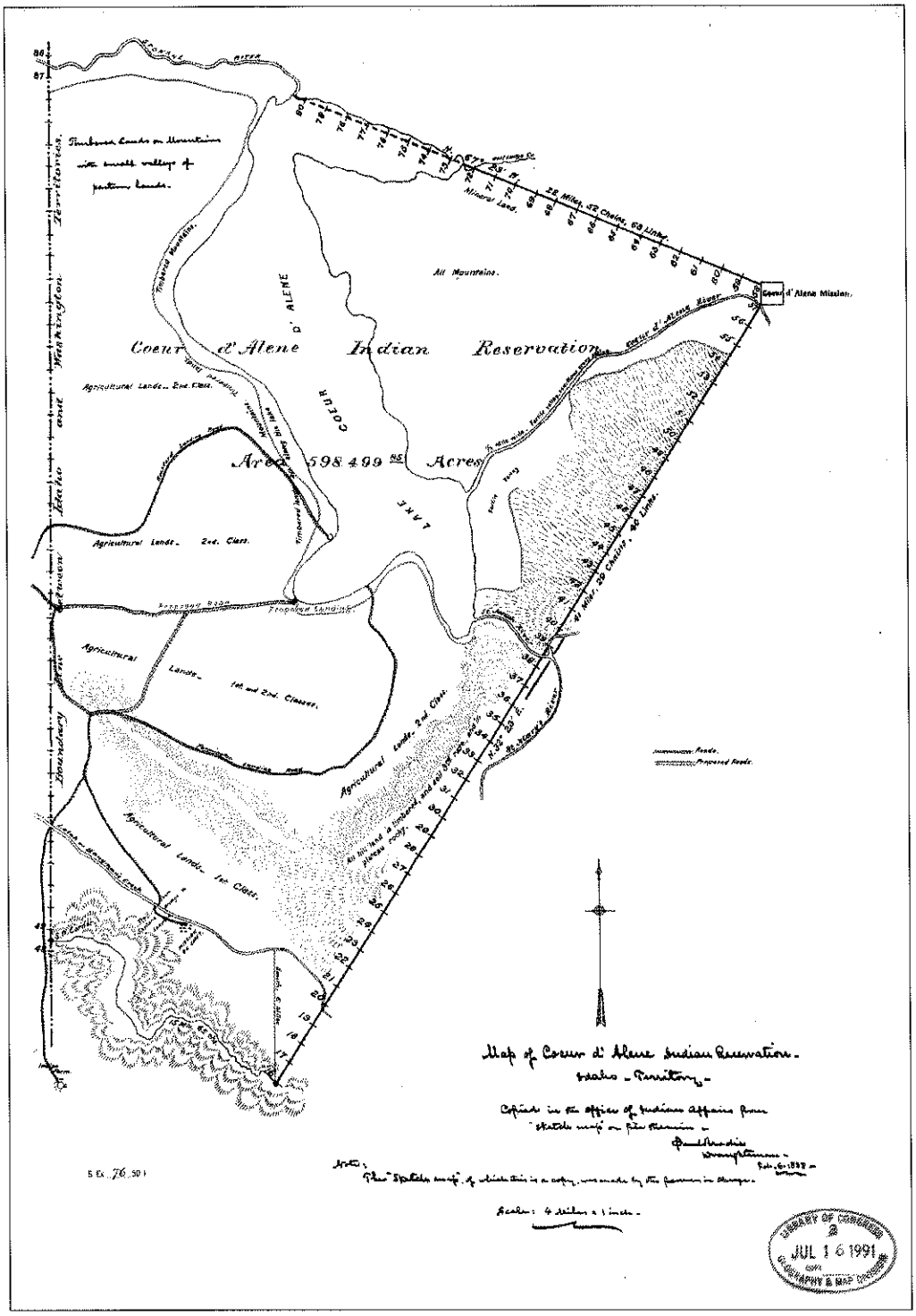

Figure 8. "Map of Coeur d'Alene Indian Reservation," February 6, 1888.
Source: Senate, 50th Congress, 1st session, S. Ex. Doc. 76, serial 2510, USA-CDA00021564.

Exhibit 1 to Affidavit of Ian Smith

Indian mining claims. Although these reports also revealed that tribal members "occasionally go there hunting for elk and deer," the inspectors saw "no reason why" the Indians would not "dispose of their title," given that this "mountain district" was "approximately valueless" for agricultural purposes and since opening it would facilitate development of the area's "mineral resources." Atkins further argued that "changes could be made in the boundaries for the release of some or all of the navigable waters therefrom, which would be of very great benefit to the public."[363]

By September 1888, Massachusetts Senator Henry Dawes had introduced two bills to ratify the March 1887 agreement with the Coeur d'Alenes. The second of these—which also provided for the ratification of the Northwest Indian Commission's agreements with the Spokane, Pend d'Oreille, Salish, and Kootenai Indians—received the Senate's approval on September 20, 1888. In urging the bill's passage, Dawes noted that the agreements had been "made two years ago, but have failed to be brought to the consideration of Congress for ratification until now."[364] Although Dawes's bill was referred to the House Committee on Indian Affairs on September 24, 1888, the proposed legislation never was reported out of committee.[365]

Discussing the disapproval of the Dawes bills in a March 1890 report, the House Committee on Indian Affairs indicated that a primary reason why the 1887 agreement was not ratified in 1888 was the "desire on the part of the United States to acquire an additional area, to wit, a certain valuable portion of the reservation specially dedicated to the exclusive use of said Indians under an Executive order of 1873." The committee further stated that the northern portion of the 1873 reservation included "numerous, extensive, and valuable mineral ledges," as well as "large bodies of valuable timber accessible to and necessary to develop the extensive and rich Coeur d'Alene mines." In addition to mining and timber lands, the northern tier of the reservation also encompassed valuable waterways and agricultural lands along the Coeur d'Alene River. Commenting on these lands, the committee stated:

> It [the Coeur d'Alene Reservation] contains a magnificent sheet of water, the Coeur d'Alene Lake, and its chief tributary, to wit, the Coeur d'Alene River, over the waters of which steamers now ply daily from the city of Coeur d'Alene to the old Coeur d'Alene Mission, there connecting with a railway system penetrating into the very heart of said Coeur d'Alene mineral belt. It also controls the outlet of said lake, to wit, the Spokane River. It also includes the region of country along which the Northern Pacific Railroad Company has projected its branch line, from Rathdrum in Idaho via Fort Coeur d'Alene, destined, no doubt, to make a connection ultimately with its main trunk at Missoula, in Montana. It also includes the rich and extensive valley of the Coeur d'Alene River, containing rich hay

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[363] Atkins to the Secretary of the Interior, February 7, 1888, in Senate, *Letter from the Secretary*, 50th Congress, 1st session, February 13, 1888, S. Ex. Doc. 76, serial 2510, 6, USA-CDA00021564.

[364] *Congressional Record*, 50th Congress, 1st session, August 2, 1888, and September 20, 1888, 19: 7153, 8754–8755, USA-CDA00003727.

[365] *Congressional Record*, 50th Congress, 1st session, September 24, 1888, 19: 8892, USA-CDA00003727. For a further discussion about the fate of Senator Dawes's proposed 1888 bills to ratify the March 1887 agreement, see T. J. Morgan, Commissioner of Indian Affairs, to the Secretary of the Interior, December 7, 1889, in Senate, *Message from the President of the United States, Transmitting a Letter of the Secretary of the Interior Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, 4, USA-CDA00003948.

meadows which the said Indians as yet have never utilized, but which are of great value to said Coeur d'Alene mining belt.[366]

The 1889 Agreement and Congress's 1891 Ratification of Coeur d'Alene Agreements

With action on the proposed legislation to ratify the 1887 agreement stalled in Congress, Seltice, Peter Wildshoe, and Regis petitioned newly elected President Benjamin Harrison in April 1889 urging congressional approval of their two-year-old agreement. Tribal leaders told Harrison that they had recently learned about the appointment of "some Commissioners to come and treat with us for the purpose of curtailing our reservations." While they were accustomed to non-Indian miners and settlers desiring "the small, little reservation left to us," the Coeur d'Alene chiefs considered it "very strange that the great government of Washington should covet a few hundred thousand acres of our land left to us after our giving to said government nearly four millions of acres of very rich and valuable lands and minerals." Although Seltice, Wildshoe, and Regis stated that they had "no objection to give up some of our mountains," they refused to negotiate with a new commission until Congress ratified their 1887 agreement. They told Harrison:

> [W]e do not see how we can make an agreement before the ratification of the first agreement. Our people will surely say "Washington does not keep his word, and it is useless to treat with him." So please ratify the first agreement before you send people to make a second one.[367]

As Coeur d'Alene leaders indicated in their petition, Congress had recently authorized a $2,000 appropriation to pay the expenses of a new commission to negotiate "for the purchase and release by said tribe of such portions of its reservation not agricultural and valuable chiefly for minerals and timber as such tribe shall consent to sell." Under the terms of the Act of March 2, 1889, any such agreement negotiated with the Coeur d'Alenes had to be "ratified by Congress" to become effective, and the terms had to be "just and equitable" to both parties. Congress further directed the secretary of the interior to report on the commission's actions "at the earliest practicable time."[368]

The newly appointed commission consisting of Benjamin Simpson, John Shupe, and Napoleon Humphrey arrived at the DeSmet Mission less than four months after Coeur d'Alene leaders had petitioned President Harrison urging the ratification of the March 1887 agreement. Since the government had not heeded tribal leaders' request to "ratify the first agreement before you send people to make a second one," these commissioners were met with significantly less cordiality than their predecessors two years earlier. At the first council on August 14, 1889, Seltice likened the 1887

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[366] House, *Ratification of Coeur d'Alene Indian Treaties in Idaho*, 51st Congress, 1st session, March 28, 1890, H. Rpt. 1109, serial 2810, 4, USA-CDA00003827.

[367] Andrew Seltice, Regis Captain, and Peter Wildshoe to B. Harrison, President of the U.S., April 30, 1889, Letter 14388-1889, LR 1881–1907, RG 75, NARA I, USA-CDA00005827.

[368] Act of March 2, 1889, 25 Stat. 980 at 1002, USA-CDA00021574.

agreement to "a strong, high fence" that tribal leaders had built "with the Government." Telling Simpson, Shupe, and Humphrey that the Coeur d'Alenes had done "our part," Seltice stated that Congress left a "gap" in the fence by failing to ratify the 1887 agreement with the Northwest Indian Commission. "[Y]ou three friends and headmen must close up that gap," he told the commissioners, "That treaty is a wall we can not see through. When it is down we can see through and talk."[369]

The non-ratification of the 1887 agreement remained a significant obstacle throughout the month-long negotiations held with the Coeur d'Alenes in August–September 1889. Following a ten-day journey during which they conducted "a thorough inspection of the northern half of the reservation," the commission convened a second council with tribal leaders on August 27, 1889. At this second council, Seltice reiterated the importance of ratifying the 1887 agreement, telling the commissioners, "We had a great talk about that other treaty, and I think we had better have that other treaty settled before we make this." Four days later, Seltice again emphasized the significance of the earlier negotiations, stating that tribal leaders had informed the 1887 commission that "we wanted the land of our present reservation, provided we were to hold it forever; as had been promised." According to Seltice, the Northwest Indian Commission "seemed well satisfied, and said they would make a tie to our land that would never be untied, and to-day I think this is still my mind as when we treated with them."[370]

By the final council on September 8, 1889, the commission had largely reassured tribal leaders that Congress would ratify the 1887 agreement and that no subsequent agreement would be effective without its prior approval. For example, during one exchange on August 27, Simpson told Seltice, "If we make a treaty with you now, we will make it entirely dependent on the ratification of the former treaty." Moreover, he argued that there was "no objection" to the 1887 agreement—which he described as "half ratified now"—and that the "new treaty" would "help the ratification of the other treaty." Simpson also told Seltice that he could "have a copy of the agreement and treaty, and go to Washington to see that all is fulfilled and the treaty is ratified as agreed upon."[371] Discussing their efforts to assure the Coeur d'Alenes about the ratification of the 1887 agreement, the commissioners wrote in their report to the Indian Office:

> The Indians, while kind and courteous, were reluctant upon business propositions, from the fact that other business transactions with them had been neglected, and the failure of Congress to ratify the last treaty, together with the dilatory manner of the railroad company in making payment for right of way,

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[369] First Council with the Coeur d'Alene Indians, Held at DeSmet Mission, August 14, 1889, in Senate, *Message from the President . . . Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, 7, USA-CDA00003948. For the quote regarding the ratification of the 1887 agreement prior to appointing a new commission, see Seltice, Regis, and Wildshoe to Harrison, April 30, 1889, Letter 14388-1889, LR 1881–1907, RG 75, NARA I, USA-CDA00005827.

[370] Report of the Coeur d'Alene Indian Commission, Appointed March 2, 1889 (Stat., 1002), September 1889; Second Council, August 27, 1889; and Third Council, August 31, 1889; all in Senate, *Message from the President . . . Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, 5–6, 8–9, USA-CDA00003948.

[371] Second Council, August 27, 1889, in Senate, *Message from the President . . . Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, 8–9, USA-CDA00003948.

were weapons they used against overtures of the commissioners for the purchase of any more land. They displayed surprising business sagacity, coupled with an exalted idea of the fulfillment of promises.

Much time was consumed in appeasing the grievances they fostered, and in establishing confidence with them. They finally consented to dispose of a portion of the land that is included in this treaty, they insisting upon making the lines. The exorbitant price asked and the small amount of land offered, precluded any bargain, and thus matters stood for two councils following. After they had been shown the benefits to accrue from the sale of these lands, and the assurance by the Commission of the ratification of the former treaty, a clause being inserted bearing upon the fulfillment of the provisions of the former treaty, the sale was consummated, and the agreement signed accompanying this report.[372]

Another sticking point during the negotiations in August–September 1889 was the fact that several tribal members continued to reside in the area that the commissioners hoped to purchase from the Coeur d'Alenes. This area included the lands surrounding roughly the northern two-thirds of Lake Coeur d'Alene, as well as lands situated along those portions of the Coeur d'Alene and Spokane Rivers that were within the 1873 reservation boundaries. Seltice made reference to the individuals occupying these lands during the third council on August 31, telling the commissioners, "There are five or six Indians who have claims on that land, and I want you to settle with them." Shupe, however, responded by stating that "all our business must be done with your people as a tribe" and that the commission could not "treat with any of you as individuals." According to Seltice, the tribal leaders present at the council lacked authority to "sell the land of the Indians who live near the old [Cataldo] mission." He thus told Simpson, "You had better see them and fix the matter, so they will not get angry and object to the treaty."[373]

This issue arose again during the final council on September 8, 1889, when Peter Wildshoe confirmed that there were "two old men living at the old [Cataldo] mission," who did not know about the current negotiations. Likewise, the "four men living near Spokane bridge"—as well as several other tribal members who held "improved places" lying "along the Coeur d'Alene River" and the tribal member who had "fenced a hay farm" in the vicinity of Fort Sherman—were unaware of the 1889 talks with the government. Seltice again urged that these individuals "be paid extra," in addition to the amount to be received by the Tribe. Although he was successful in boosting the payment for these lands from an initial offer of $150,000 to $500,000, Seltice could not get the commission to agree to any "extra pay" for the "improvements" of tribal members living on the lands sold to the United States under the 1889 agreement. Simpson stated, "We can not go over the

[372] Report of the Coeur d'Alene Indian Commission, September 1889; both in Senate, *Message from the President . . . Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, 6, USA-CDA00003948.

[373] Third Council, August 31, 1889, in Senate, *Message from the President . . . Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, 10, USA-CDA00003948.

$500,000," telling Seltice that the tribal members with "farms" located within the area to be purchased from the Coeur d'Alenes would have to be compensated "from the $500,000."[374]

In addition to demanding the ratification of the 1887 agreement, Coeur d'Alene leaders also continually made reference to the importance of the 1873 reservation throughout the August–September 1889 negotiations. For example, during the August 27 council, Seltice responded to Simpson's assertion that "the more land you let us have the more money you will get," by stating, "My dear friends, if our object was money you would be correct, but money is no object; our land we wish to keep." Later that day, he told the commissioners, "You know it is against our wishes to sell any land, but you wanted to buy." At the final council, Seltice indicated how difficult it was for tribal leaders to consent to the land sale, comparing it to "cutting my left arm off." Moreover, he argued that $500,000 was "a little sum" for the lands in the northern tier of the 1873 reservation, stating that "the ground is full of gold that is worth millions."[375]

Signed on September 9, 1889, the Coeur d'Alenes' agreement with Simpson, Shupe, and Humphrey provided for the Tribe to "relinquish" to the federal government all "right, title, and claim" to the northern portion of their 1873 reservation. The boundaries of the lands "quitclaim[ed] to the United States" extended from the Cataldo Mission at the reservation's northeastern corner to the point where the Spokane River crossed the Idaho–Washington border. After stretching south along the state line for twelve miles, the "relinquish[ed]" area then ran "along the west shore" of Lake Coeur d'Alene until reaching "a point due west of the mouth of the Coeur d'Alene River." From the river's mouth, the southern boundary of the purchased lands followed "a due east line until it intersects with the eastern boundary line of the said reservation; thence northerly along the said east boundary line to the place of beginning."[376] (See Figure 9.)

As "consideration" for these lands, the United States promised to pay the Coeur d'Alene Indians "the sum of $500,000," which would be disbursed to "each and every member" of the Tribe on a "pro rata" basis after "the completion of all the provisions of this agreement." As promised during the negotiations, the agreement also explicitly provided that its terms would "not be binding on either party until the former agreement" of March 26, 1887, "shall be duly ratified by Congress." Like its predecessor, the September 1889 agreement also required congressional ratification before it would become "binding on either party."[377]

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[374] Fourth Council, September 8, 1889, in Senate, *Message from the President . . . Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, 11–12, USA-CDA00003948.

[375] Third Council, August 31, 1889; and Fourth Council, September 8, 1889; both in Senate, *Message from the President . . . Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, 10–12, USA-CDA00003948.

[376] Agreement, September 9, 1889, in Senate, *Message from the President . . . Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, 13, USA-CDA00003948.

[377] Agreement, September 9, 1889, in Senate, *Message from the President . . . Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, 13–14, USA-CDA00003948.

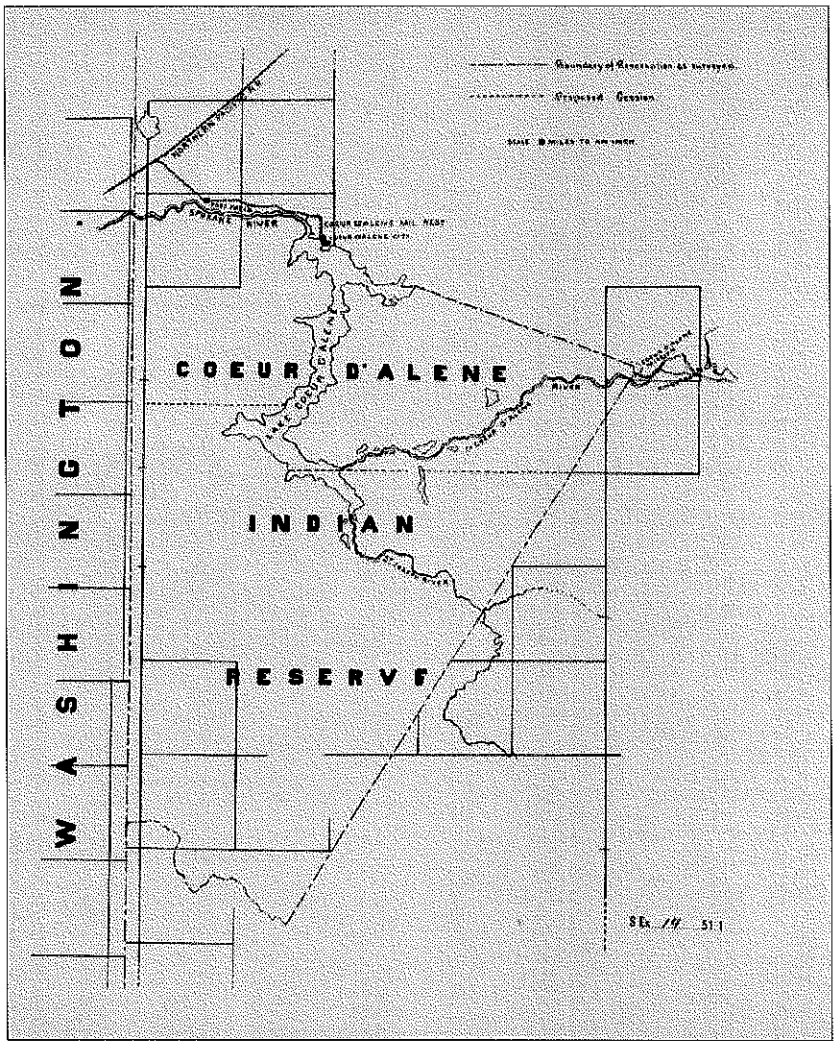

Figure 9. Map of Coeur d'Alene Reservation, 1889.
Source: Senate, 51st Congress, 1st session, S. Ex. Doc. 14, Serial 2679.

Commissioner of Indian Affairs T. J. Morgan transmitted the 1889 Coeur d'Alene agreement to Secretary of the Interior John Noble on December 7, 1889, reporting that it provided for the sale of an estimated "184,960 acres, or 289 square miles," to the federal government for $500,000. Morgan indicated that it required "much argument and entreaty" to secure the agreement, stating that tribal leaders "absolutely refused to entertain any proposition" for the sale of any lands, without the "express condition that the old [March 1887] agreement should be ratified and carried into effect." He further noted that it was not "the practice to pay such large sums of money to Indians cash in hand as is proposed in this case." However, Morgan claimed that the Coeur d'Alenes' "habits and past life" made it reasonable "to assume that they would make just as good use of their money if

paid in this way as they would if it were paid to them in smaller sums or expended for their benefit in the usual manner."[378]

Secretary Noble agreed, telling President Harrison that he considered the 1889 agreement "the best that can be made." He thus transmitted the new Coeur d'Alene agreement to Harrison on December 16, 1889, and asked him to forward it to Congress "for such action as may be deemed proper." Two days later, Harrison did just that, sending a copy of the 1889 agreement, along with the "accompanying papers of the Commission." Notably, the Senate also included copies of the reports, papers, and council minutes associated with the negotiation of the March 1887 agreement in the published report it produced after receiving Harrison's presidential message.[379]

By March 1890, the House Committee on Indian Affairs had reported favorably on a bill to ratify both the 1887 and 1889 agreements with the Coeur d'Alenes. The House committee indicated that, by ratifying "these two treaties," the United States would secure "about 3,000,000 acres more or less" for only $650,000, or roughly 22 cents per acre. Although legislators recognized that these lands were "of great value" to tribal members, the committee argued that they were "of greater, if not of inestimable, value to the citizens of the United States in the eastern portion of the State of Washington and northern portion of the Territory of Idaho." Apparently unaware of the statements made by Coeur d'Alene leaders during the 1889 councils regarding continued tribal occupation of the lands in the northern portion of their reservation, the House committee stated that the 3 million acres purchased by the United States "do not include a single cultivated farm of said Indians, so far as is now known."[380]

Committee members also noted that Congress had inserted an additional provision into the bill, under which an alleged 1871 agreement "between said Coeur d'Alene Indians and Frederick Post" would be "confirmed" along with the 1887 and 1889 agreements. One week after negotiating the 1889 land sale with the United States, Seltice was reportedly involved in negotiations that resulted in a statement indicating that, in June 1871, he had, "with the consent of my people," sold "the place now known as Post Falls" to Frederick Post "for a valuable consideration." According to this statement, the sale of the Post Falls tract "included all three of the river channels and islands, with enough land on the north and south shores for water-power and improvements." The statement further indicated that Post had "fulfilled all of his agreements with me [Seltice] and my people by improving the water-power and building mills at great expense." In recognition of this and a promised $500 in "valuable consideration," Seltice allegedly authorized Post to "build a house and

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[378] T. J. Morgan, Commissioner of Indian Affairs, to the Secretary of the Interior, December 7, 1889, in Senate, *Message from the President . . . Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, 2–4, USA-CDA00003948.

[379] Senate, *Message from the President . . . Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, USA-CDA00003948.

[380] House, *Ratification of Coeur d'Alene Indian Treaties in Idaho*, 51st Congress, 1st session, March 28, 1890, H. Rpt. 1109, serial 2810, 4, USA-CDA00003827.

take full possession of" that portion of Post Falls situated "on the reservation side, so that when the treaty is confirmed he may have full possession and protection of the Government in the same."[381]

Congress considered the proposed legislation to ratify the Coeur d'Alene agreements as a stand-alone measure until early 1891, with the Senate passing a Coeur d'Alene-specific bill (S. 2828) on June 7, 1890.[382] Despite a favorable report from the House Indian Affairs Committee on S. 2828 in mid-August 1890, the proposed legislation never received consideration on the floor of the House.[383] With action on the bill languishing in the House, Kansas Congressman Bishop Perkins suggested adding the language of S. 2828 to that year's Indian appropriations bill on February 16, 1891. Two days later, the House agreed to include the provisions ratifying the Coeur d'Alene agreements in the 1891 Indian appropriations law, along with several other agreements negotiated with other Indian tribes in the West.[384] The Senate followed suit on March 3, 1891, and the bill—inclusive of the language ratifying the Coeur d'Alene agreements—became law that day.[385]

Notably, during the Senate's debate on the Indian appropriations bill, Florida Senator Wilkinson Call raised a question about the insertion of the proviso confirming the 1871 agreement between Seltice and Frederick Post. Referring to this as "an unusual provision," Senator Call stated, "There was no information, of which I had any knowledge, of the extent of this alleged agreement with the Indians for this land, nor of the channels of the rivers which are included within it and which are provided to be patented by the bill." Although Call presumed that "the commissioners who negotiated this agreement had full knowledge of the facts," there is no solid evidence about the parties involved in the 1871 agreement, nor is there any indication that the secretary of the interior authorized the 1871 negotiations. Despite this lack of information and despite Senator Call's eleventh-hour request to "call the attention of the Senate to this provision," Congress ratified it along with the Coeur d'Alene Indians' 1887 and 1889 agreements in the Act of March 3, 1891.[386]

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[381] House, *Ratification of Coeur d'Alene Indian Treaties in Idaho*, 51st Congress, 1st session, March 28, 1890, H. Rpt. 1109, serial 2810, 5, USA-CDA00003827; Act of March 3, 1891, 26 Stat. 989 at 1031–1032, USA-CDA00021598. For reference to the $500 offer for the lands within Post Falls, see Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 215, 233, USA-CDA00001740.

[382] *Congressional Record*, 51st Congress, 1st session, June 7, 1890, 21: 5769–5770, USA-CDA00003732. For evidence that Congress continued to consider stand-alone bills to ratify the Coeur d'Alene agreements until January 1891, when Kansas Representative Bishop Perkins introduced H.R. 13192, see *Congressional Record*, 51st Congress, 2d session, January 17, 1891, 22: 1525, USA-CDA00021578.

[383] House, *Ratification of Coeur d'Alene Indian Treaties in Idaho*, 51st Congress, 1st session, August 19, 1890, H. Rpt. 2988, serial 2815, 1, USA-CDA00003826.

[384] *Congressional Record*, 51st Congress, 2d session, February 16, 1891, 22: 2762–2764, USA-CDA00021581; *Congressional Record*, 51st Congress, 2d session, February 18, 1891, 22: 2872–2873, USA-CDA00021595. For additional debate on Bishop's amendment to the Indian appropriations bill—which focused on agreements involving lands sold by tribes in North Dakota, South Dakota, Kansas, and Oklahoma, as well as the general process by which lands sold to the United States would be opened to non-Indian settlers—see *Congressional Record*, 51st Congress, 2d session, February 17, 1891, 22: 2806–2814, USA-CDA00021585.

[385] *Congressional Record*, 51st Congress, 2d session, March 3, 1891, 22: 3881, USA-CDA00021608; Act of March 3, 1891, 26 Stat. 989 at 1026–1032, USA-CDA00021598.

[386] *Congressional Record*, 51st Congress, 2d session, March 3, 1891, 22: 3878, USA-CDA00021608; Act of March 3, 1891, 26 Stat. 989 at 1026–1032, USA-CDA00021598.

Ongoing Tribal Uses of Coeur d'Alene Waterways, 1880s-1900s

As reflected in the 1889 council meetings, Coeur d'Alene tribal members continued to use and occupy the lands sold to the United States under the terms of the September 1889 agreement. Although comments made by tribal leaders during these councils focused primarily on agricultural uses and "improvements,"[387] subsequent historical evidence also showed the ongoing importance of tribal waterways not only for the Coeur d'Alenes' expanding on-reservation farming endeavors, but also for their continued hunting, fishing, and gathering activities that occurred along rivers and lakes located both on and off the reservation. Of particular interest in this regard were the 1910 hearings held by the Interior Department involving the Washington Water Power Company's license for its dams on the Spokane River. During these hearings, witnesses called by both the government and the company testified to the Coeur d'Alenes' continued and varied uses of their traditional waterways through the first decade of the 1900s.

For example, in testimony given on January 4, 1910, St. Maries, Idaho, farmer A. J. L. Brewald reported seeing "Indians camped every place on that bank, I guess, up and down that [St. Joe] river, from the lake to the [reservation] line." Moreover, Brewald asserted that Coeur d'Alene tribal members had camped "on these high banks next [to] the river" during the summers "[p]ractically every year" since his settlement at St. Maries in 1884. Notably, Brewald's farm was located roughly two miles east of the reservation's eastern boundary, near a traditional Coeur d'Alene village site. Brewald further testified to the quality of the "trout fishing on the St. Joe River," noting that he had observed Indians fishing on that stream in the spring, summer, and fall, as well as "through the ice" near the mouth of the St. Joe River "at the upper end of the lake." He also reported seeing tribal members fishing "on Chatcolet Lake"—including ice fishing in the wintertime—and claimed there was "pretty good hunting" for deer and ducks throughout the St. Joe River valley.[388]

Similarly, witnesses J. S. Pence, Adolphus Butler, and Clarence Boutelier—the latter of whom were adopted tribal members—testified to Indian hunting and fishing on Coeur d'Alene Reservation rivers and lakes during the 1890s and into the first decade of the twentieth century. Both Butler and Boutelier reported hunting for deer and ducks along the rivers, ponds, and marshes located between Lake Chatcolet and St. Maries, Idaho, in addition to observing evidence of Coeur d'Alene fish traps near the St. Joe River.[389] Discussing the purpose of the fish traps that "the Indians put in there at

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[387] Third Council, August 31, 1889; and Fourth Council, September 8, 1889; both in Senate, *Message from the President . . . Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, 10–12, USA-CDA00003948.

[388] Testimony of A. J. L. Brewald, January 4, 1910, vol. 2, Entry 1028: Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company,1909–10, Record Group 49: Records of the Bureau of Land Management [RG 49], NARA I, pp. 814, 819–821, USA-CDA00008049. For the location of the traditional Coeur d'Alene village site near St. Maries, Idaho, see Palmer, "Coeur d'Alene," in *Handbook*, vol. 12, 314, USA-CDA00021626.

[389] Testimony of Adolphus Butler, January 7, 1910, vol. 3, Entry 1028, RG 49, NARA I, pp. 1419–1420, USA-CDA00008085; and Testimony of Clarence Boutelier, January 10, 1910, vol. 4, Permit Hearing 1910, Department of the Interior, Records Relating to Legal Action Taken by the Washington Water Power Company [WWPC], Eastern

... continued on next page

some time or other," Pence stated that the traps were used by tribal members "to catch the fish" as they came "out of these bottoms when they have gone in there in the high water."[390]

The 1910 hearings also provided evidence of the Coeur d'Alenes' historic uses of canoes and their ongoing use of the area near Benewah and Chatcolet Lakes. Eastern Washington farmer H. S. Young, for example, testified that he ascended the St. Joe River "in an Indian canoe" in 1873, fishing and camping along the river's banks that summer.[391] Likewise, prospector B. F. Coplen borrowed an Indian dugout canoe during an 1870s camping and hunting trip near the mouth of the St. Joe River, which he claimed enabled him to "kill all the ducks I wanted."[392] Eastern Washington farmer Henry Collins, meanwhile, testified to using Coeur d'Alene Chief Peter Moctelme's boat while fishing near Benewah Lake in the early 1890s. Collins also stated that Moctelme was "camped there at Chatcolet," even though the chief's farm was located "east of Tekoa."[393] Several other witnesses also testified to the presence of Indian camps and Coeur d'Alene fishing and hunting activities near the mouth of the St. Joe River and on the lands between Chatcolet and Benewah Lakes.[394]

Documents written in the 1890s and early 1900s during the negotiations involving the creation of Heyburn State Park and the townsite of Harrison, Idaho, provided further evidence of the continued significance of hunting and fishing activities for tribal members. For example, during a February 6, 1894, meeting, Coeur d'Alene leaders told government negotiators, "Where Harrison now stands was the place where the Indians used to fish." Located east of Lake Coeur d'Alene near the mouth of the Coeur d'Alene River, Harrison first attracted non-Indians who only had "the intention to fish," according to Chief Andrew Seltice.[395] The lands within modern-day Heyburn State Park—which "principally skirt[ed] the small lake named 'Chatcolet'"—were likewise noted as being "a favorite camping and fishing place" for both tribal members and "the white people in this

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Washington University Archives, Cheney, Washington [EWU Archives], pp. 1628, 1637–1638, 1645, 1656, 1658–1660, 1690–1691, 1700, USA-CDA00008128.

[390] Testimony of J. S. Pence, January 6, 1910, vol. 3, Entry 1028, RG 49, NARA I, pp. 1297–1298 [Pence X-6–X-7], USA-CDA00008085.

[391] Testimony of H. S. Young, February 11, 1910, vol. 10, Permit Hearing 1910, Department of the Interior, Records Relating to Legal Action Taken by the WWPC, EWU, pp. 4869–4870, USA-CDA00008363.

[392] Testimony of B. F. Coplen, February 14, 1910, vol. 11, Entry 1028, RG 49, NARA I, p. 5243 [frame 0307], USA-CDA00008472.

[393] Testimony of Henry W. Collins, February 12, 1910, vol. 11, Entry 1028, RG 49, NARA I, pp. 5076–5077 [Collins X-41–X-42], USA-CDA00008472.

[394] Testimony of J. B. Gilbert, February 9, 1910, vol. 10, Permit Hearing 1910, Department of the Interior, Records Relating to Legal Action Taken by the WWPC, EWU, pp. 4517–4519, USA-CDA00008363; Testimony of [Oscar] Wallace, February 17, 1910, vol. 12, Entry 1028, RG 49, NARA I, pp. 5573–5574 [Wallace D-9–D-10], USA-CDA00008541.

[395] Coeur d'Alene Council, February 6–7, 1894, in House, *Agreement with Coeur d'Alene Indians*, 53d Congress, 2d session, March 23, 1894, H. Ex. Doc. 158, serial 3226, 11–12, USA-CDA00003854.

vicinity." According to the Coeur d'Alene superintendent and allotting agent, tribal leaders believed the park's establishment would "preserve to them, the right to camp and fish at this resort."[396]

While these documents revealed the continued uses and importance of tribal waterways for fishing, hunting, and other traditional subsistence activities, the annual reports of the agents who held jurisdiction over the Coeur d'Alene Reservation in the 1880s and 1890s focused almost entirely on the Tribe's agricultural progress. For example, in his 1887 report—written five months after the negotiation of the March 1887 agreement—Colville Agent Rickard Gwydir lauded the Coeur d'Alenes as "the most flourishing tribe in the agency," noting that most tribal members had "large bands of horses and cattle and large farms, well fenced and the land well tilled." He further stated that, as farmers, the Indians would "compare favorably with the whites."[397] Two years later, the Tribe reportedly remained in a "prosperous condition" despite suffering through a "very dry season" in the summer of 1889. According their new agent Hal Cole, they remained "far ahead of any other belonging under this agency in civilized pursuits, nearly all having good and well-tilled fields and comfortable houses and barns."[398]

In 1891—the year Congress ratified the Coeur d'Alenes' 1887 and 1889 agreements—Agent Cole again commended tribal members' agricultural efforts, writing, "To see their well-tilled fields and the splendid crops growing, and later in season to see them harvesting and thrashing and hauling their grain to market by the four-horse load, one would fancy the Indians were marching along abreast of the most industrious white farmer and were fast becoming civilized." He also claimed that nearly all Coeur d'Alenes were "farmers," while only "a few" were "idlers."[399] By the mid-1890s, they continued to hold "the finest farms" among all Colville Agency tribes that boasted "clean fields, well supplied with stock, modern machinery, good houses and barns."[400] At the decade's end, tribal members reportedly had "a greater acreage in cultivation than ever before." Their agent added that they were "further advanced in civilization, in better condition financially, and better farmers than any other tribe connected with this agency."[401]

Taken together, the 1880s–1890s Colville Agency annual reports and the documents relating to the Washington Water Power Company's license, the establishment of the Harrison townsite, and

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[396] W. B. Sams, Special Allotting Agent, and Charles O. Worley, Superintendent, to the Commissioner of Indian Affairs, January 30, 1908, in Senate, *To Establish a Park on the Coeur d'Alene Indian Reservation*, 60th Congress, 1st session, February 18, 1908, S. Rpt. 251, 2, USA-CDA00003999; Worley and Sams to the Commissioner of Indian Affairs, January 11, 1909, Letters Received, RG 75, NARA I, USA-CDA00006277.

[397] Rickard Gwydir, Indian Agent, Colville Agency, to the Commissioner of Indian Affairs, August 31, 1887, in ARCIA 1887, 287, USA-CDA00004336.

[398] Hal J. Cole, Indian Agent, Colville Agency, to the Commissioner of Indian Affairs, August 15, 1889, in ARCIA 1889, 282–283, USA-CDA00004363.

[399] Cole to the Commissioner of Indian Affairs, August 15, 1891, in ARCIA 1891, 441, USA-CDA00004381.

[400] Jno. W. Bubb, Acting Indian Agent, Colville Agency, to the Commissioner of Indian Affairs, August 21, 1894, in ARCIA 1894, 312, USA-CDA00021613.

[401] Albert M. Anderson, Indian Agent, Colville Agency, to the Commissioner of Indian Affairs, August 25, 1899, in ARCIA 1899, 355, USA-CDA00004448.

the creation of Heyburn State Park reflected the varied ways in which the Coeur d'Alenes continued to rely on the waterways within their traditional territory during the 1880s, 1890s, and into the early 1900s. While many tribal members expanded their agricultural activities during these decades, the extant historical evidence indicates that they did not abandon their traditional subsistence practices. Instead, as they had done since the arrival of the Jesuits in the 1840s, the Coeur d'Alene Indians continued to rely on a mix of agriculture, hunting, fishing, and gathering activities to provide for their subsistence in the decades both leading up to and following the negotiation of the 1887 and 1889 agreements.

Conclusion

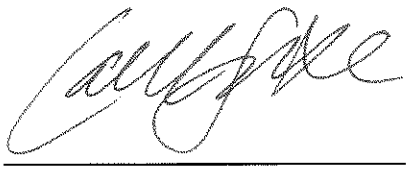
Through the passage of the Act of March 3, 1891, Congress confirmed the Coeur d'Alene Indian Reservation as the permanent home of the Coeur d'Alene Tribe, to be "held forever as Indian land" and not to be opened "or otherwise disposed of" without tribal consent.[402] The fact that this provision was inserted into the March 26, 1887, agreement at the request of Coeur d'Alene leaders reflected the importance that tribal members placed on the reservation lands that had been set aside for them fourteen years earlier by executive order. Although many tribal members had begun farming in the DeSmet area by the time the Northwest Indian Commission negotiated with them in 1887, they did not abandon their traditional subsistence practices, nor was the significance of tribal waterways lessened for them. On the contrary, historical evidence indicates that the Coeur d'Alenes continued to rely extensively on rivers, lakes, and streams located both on and off the 1873 reservation for a wide variety of subsistence-based purposes, including but not limited to fishing, hunting, gathering, and travel, as well as agricultural pursuits.

The Coeur d'Alene Tribe's subsistence-based uses of water did not end with the relocation of many tribal members from their traditional village sites to the DeSmet area in the late 1870s, nor did they end with the signing of the 1887 and 1889 agreements. Documents from the 1880s, 1890s, and the early 1900s reveal not only a pattern of ongoing reliance on Coeur d'Alene waterways and traditional subsistence practices, but also continued tribal uses of lands located both inside and outside the 1873 reservation boundaries. Moreover, at the 1889 council meetings, tribal leaders clearly indicated the presence of Coeur d'Alene homes and farms located within the area opened by the federal government under the terms of the September 1889 agreement.

When considered alongside the extensive historical and anthropological evidence regarding the vital importance of Coeur d'Alene waterways to tribal members prior to the 1880s, documents from the turn of the twentieth century further support the idea that the United States created the Coeur d'Alene Indian Reservation in 1873 for the purpose of establishing a permanent home for the Tribe, centered on the region's rivers, lakes, streams, and other aquatic resources. As shown in the report above, the historical record reveals that the homeland purposes for which the reservation was

[402] Act of March 3, 1891, 26 Stat. 989 at 1028, USA-CDA00021598.

established were not limited to agricultural uses but instead were intended to meet the needs of tribal members who depended on Coeur d'Alene waterways for a broad range of uses.



Ian Smith, Senior Historian, HRA

Appendix A. Ian Smith Resume

Exhibit 1 to Affidavit of Ian Smith

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HISTORICAL
RESEARCH
ASSOCIATES, INC.

Ian Smith

Senior Historian

SUMMARY OF EXPERIENCE

Mr. Smith has fifteen years of experience as a historian at HRA. During that time, Mr. Smith's work has focused mainly on research and writing for historical-legal studies relating to Indian land and water rights, navigability of waterways, land-use issues in the West, and natural resource damage claims. Mr. Smith has also written historic contexts for cultural resource management reports. In addition to his experience researching in a wide array of federal, state, and local archival repositories, Mr. Smith has written or co-written numerous expert historical reports and has provided expert witness testimony both at trial and in deposition.

EDUCATION

MA, History, 2010, University of Montana
BA, History and English Literature, 1999, University of Montana

RELEVANT EXPERIENCE

Confederated Salish and Kootenai Tribes (CSKT) Water Rights, Flathead Indian Reservation, Montana [ongoing]

Senior historian and author of a series of expert historical reports involving the CSKT's water rights and the water rights associated with the construction and operation of the Flathead Indian Irrigation Project (FIIP) in western Montana. Issues analyzed in these reports have included the nature of Flathead Reservation and FIIP water rights, the history of repayment of FIIP's construction costs, and the historic uses of off-reservation hunting, fishing, and gathering areas guaranteed to the CSKT in their 1855 treaty with the U.S. government.

Coeur d'Alene Indian Reservation Water Rights, Northern Idaho [ongoing]

Senior historian, expert witness, and project manager for a case involving the Coeur d'Alene Indian Tribe's water rights in the Coeur d'Alene-Spokane River Basin Adjudication. The project involved research and analysis relating to the purposes for the creation of the Coeur d'Alene Indian Reservation in 1873 and the traditional uses of water by tribal members both before and after the reservation's establishment.

***Hance v. Arnold*, Verde River Water Rights, Arizona [ongoing]**

Senior historian, expert witness, and project manager for a case involving water rights along the Verde Ditch in Arizona, which may impact the water rights and water use of the Yavapai-Apache Nation. The project involves research and analysis of land patent files, title documents, turn-of-the-century land use reports, and court records relating to a 1909 water rights decree to determine the extent of land and water use at the time of the 1909 decree.

***Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District, et al.* [ongoing]**

Senior historian, project manager, and report author for a case involving the Agua Caliente Band's claim for a *Winters*-based right to groundwater on reservation lands near Palm Springs, California. The project focused on the creation of the reservation in 1876-1877 and the subsequent patenting of reservation lands into the early 1900s, requiring research at several branches of the National Archives, in congressional records, and in microfilmed records of the Bureau of Indian Affairs.

***U.S. v. Joseph Joshua Jackson*, Red Lake Indian Reservation, Minnesota**

Expert witness, project manager, and report author for a study of a 1905 law that authorized the sale of lands within the Red Lake Indian Reservation, Minnesota, to a railroad company. My expert historical report analyzing congressional intent was offered as an exhibit in the case, and I provided expert testimony in a federal court hearing. The judge relied on both my report and my testimony in issuing his 2014 opinion in the case.

***Freedom from Religion Foundation v. Chip Weber, et al.*, Whitefish, Montana**

Expert witness, project historian, and report author for a study involving the permitting, construction, and uses of a statue of Jesus that has been on the Whitefish Mountain Resort ski area in western Montana since the early 1950s. I prepared an expert report and provided deposition testimony, both of which were relied on by the U.S. district court judge in issuing his ruling. In August 2015, the Ninth Circuit Court of Appeals upheld the district court's ruling.

Klamath Basin General Stream Adjudication, Klamath County, Oregon

Project historian and report author for a study of water rights filings in the Klamath Basin General Stream Adjudication pending before the Oregon Water Resources Department. The majority of the filings examined in my expert report dealt with alleged water rights based on the State of Oregon's issuance of Swamp Act deeds in the early 1880s. The attorneys relied on my report to determine whether to file exceptions to specific water right claims.

Water Rights in Montana Adjudication Basin 41-QJ, Lewis and Clark County, Montana

Project historian and report co-author for a study involving the history of water rights and land patenting in north-central Montana, within an area included in the 1855 boundaries of the Blackfeet Indian Reservation. The attorneys used the report to gain a favorable settlement that protected Blackfeet water rights in the region.

Sycuan Band Land and Water Rights, Sycuan Indian Reservation, California

Project historian and report author for a study involving the history of the Sycuan Band of Kumeyaay Indians in southern California. The project required research at several repositories throughout California and resulted in a book-length report detailing the history of land use and irrigation at the Sycuan Reservation.

Wind River Indian Reservation Boundary Issue, Wind River Indian Reservation, Wyoming
Project historian for a study of the impacts of a 1905 law that authorized the opening of lands within the Wind River Indian Reservation, Wyoming, to settlement by non-Indians. Provided historical documents to the client for use in determining the legal impacts of the law at issue.

CSKT—Mapping of Aboriginal Use Areas, Flathead Indian Reservation, Montana
Project historian for a study involving the mapping and documentation of off-reservation use areas traditionally relied on for subsistence by the CSKT throughout the State of Montana. The project resulted in the creation of a GIS map linked to digitized copies of historical documents.

CSKT Damage Claim Research, Flathead Indian Reservation, Montana
Research historian and report co-author for a study detailing damages to streams on the Flathead Indian Reservation that resulted from the construction and operation of the Flathead Indian Irrigation Project (FIIP). The study required research at several branches of the National Archives, tribal offices, FIIP offices, and online sources to obtain cartographic, photographic, and documentary evidence to support the tribes' damage claim.

History of Allotment and Irrigation on the Flathead Indian Reservation, Montana
Research historian and report author for a study of the history of allotment and irrigation on the Flathead Indian Reservation from the late 1890s through the 1940s, focusing especially on the construction of the Flathead Indian Irrigation Project (FIIP) and its impacts on the reservation. The project involved research within several branches of the National Archives, as well as at both tribal and FIIP offices. The project resulted in the production of a 200-page report, detailing the history of allotment and irrigation on the reservation.

***Arizona v. California*, Fort Yuma Reservation Water Rights and Boundary Determination**
Research historian and report co-author for a study regarding the boundary of the Fort Yuma Indian Reservation, including a review of the 1893 agreement that provided for the allotment and sale of surplus lands on the Quechan Tribe's reservation. DOJ attorneys submitted HRA's report in federal court, and it formed the basis for expert historical testimony by an HRA senior historian. HRA's report and testimony led, in part, to the court granting additional water rights to the Quechan Tribe.

Little Colorado River Adjudication (Hopi-Navajo Water Rights), Maricopa County, Arizona
Research historian and report co-author for a study of the Hopi Tribe's claim to a time-immemorial water right in the Little Colorado River Basin in Arizona. The study—which required research at several branches of the National Archives, as well as legislative histories of pertinent congressional actions—also addressed the long-standing boundary dispute between the Navajo and Hopi tribes, as well as the congressional and legal actions relating to that dispute.

Southern Ute Tribe's Off-Reservation Use Rights, Ignacio, Colorado
Research historian and report author for a study of the off-reservation hunting rights of the Southern Ute Indian Tribe in southwestern Colorado. The report, written on behalf of the Tribe, outlined the traditional subsistence practices of tribal people in the so-called Brunot Area located north of the present-day Southern Ute Indian Reservation, as well as analyzing the rights conferred by the treaty ceding these lands. The report incorporated information from oral history interviews with Southern Ute elders relating to tribal members' hunting, fishing,

and gathering practices in the late-nineteenth century. Tribal attorneys used the report to secure off-reservation hunting, fishing, and gathering rights for tribal members.

Indian Use Rights in the Yellowstone, Grand Teton, and National Elk Refuge Areas, Montana and Wyoming

Research historian and report author for studies of the use rights of the Crow, Shoshone-Bannock, and Eastern Shoshone Indian Tribes to lands within Yellowstone National Park, Grand Teton National Park, and the National Elk Refuge. The reports produced discussed the tribes' historic uses and off-reservation hunting, fishing, gathering, and other use rights within these park areas.

Little Colorado River Adjudication (Navajo Reservation), Maricopa County, Arizona

Research historian for a study regarding the various extensions of the Navajo Indian Reservation within the Little Colorado River Basin and the 1922 Colorado River Compact negotiations. Responsibilities included research at the National Archives central branches in Washington, D.C., and College Park, Maryland, and at the Herbert Hoover Presidential Library in West Branch, Iowa; legislative history work; and report writing.

Siletz Reservation Boundary Study, Siletz Indian Reservation, Oregon

Research historian and report author for a study of the issues surrounding the establishment and reduction of the Coast (Siletz) Indian Reservation in Oregon between 1855 and 1875. Responsibilities included researching microfilmed and published records of the Oregon Superintendency of Indian Affairs, conducting and analyzing legislative histories, and report writing.

The State of North Carolina v. Alcoa Power Generating, Inc.

Project historian for a study relating to the historic navigability of the Yadkin River in North Carolina, which was a central issue in litigation between the State of North Carolina and Alcoa Power Generating, Inc. Research included an in-depth review of late-1800s Army Corps of Engineers reports and maps, as well as reports issued by state agencies in the early 1900s.

Lower Clark Fork River Navigability Study, Western Montana

Research historian and report co-author for a study and assessment of the historic navigability of the Lower Clark Fork River in Montana. The report used primary and secondary sources, including Army Corps of Engineers' annual reports and local histories of the region, to evaluate whether that portion of the river was used as a navigable stream by settlers, commercial interests, and government officials.

***U.S. v. Hage*, Monitor Valley, Nevada**

Project historian and report co-author for a study of the history of ranching in south-central Nevada, with particular emphasis on the impacts of U.S. Forest Service administration and the 1934 Taylor Grazing Act. The expert-witness report was filed as an exhibit in the above litigation.

RS 2477 Rights-of-Way Research, Kane County, Utah

Research historian and report co-author for a study of twelve claimed RS 2477 rights-of-way in Kane County, Utah. The study detailed both historical uses of the claimed rights-of-way and cartographic and/or photographic evidence of the existence of the roads prior to 1976. The project required research at BLM offices, the Utah State Archives, and at various university archives in Utah, as well as conducting field surveys of the rights-of-way in question.

Everett Smelter PRP Research, Everett, Washington

Project historian for a study investigating the ownership and operational history of the Everett Smelter in Washington State. The study required land-title research, corporate-genealogy research, and a history of the smelter's operations.

Manufactured Gas Plant PRP Research, Olympia, Washington

Project historian for a study investigating the ownership and operational history of a manufactured gas plant located in Olympia, Washington.

***Globe Equity 59* (Gila River Indian Reservation Water Rights), Tucson, Arizona**

Research historian for a historical-legal study relating to sub-surface water use by non-Indian water users along the Upper Gila River in Arizona. Responsibilities included document review and organization and report editing.

Ramah Navajo Land and Water Use History, New Mexico

Research historian and report co-author for a project relating to the history of land and water use by the Ramah Navajo Tribe, an off-reservation branch of the larger Navajo Tribe located in northwestern New Mexico. The work involved editing an existing HRA report on the subject and incorporating new information into that report.

Walker River Basin Water Rights, Walker River Indian Reservation, Nevada

Research historian for a study pertaining to the history of the Walker River Indian Reservation and the ongoing litigation regarding water rights within the Walker River Basin. The project required research in several branches of the National Archives and the BIA's Western Regional Office in Phoenix, Arizona. The study concluded with a report detailing the history of the reservation as it pertains to the litigation involving Walker River Basin water rights.

Navajo Indian Irrigation Project Legislative and Budgetary History, New Mexico

Research historian and report author for a legislative and budgetary history of the Navajo Indian Irrigation Project (NIIP), located on the Navajo Indian Reservation in New Mexico. The project required researching and compiling documentation relating to the operation and maintenance of and funding for the project from federal and state record repositories. HRA prepared a policy timeline using the documents collected and additional materials from an earlier HRA study involving the utilization of the San Juan River.

Indian Water Rights Settlement Acts Legislative Histories

Research historian and report co-author for a study of the legislative histories of over 20 Indian water rights settlement laws, enacted by Congress from the late 1970s to 2006. The project involved the production of legislative-history tables, outlining the history of each law, as well as research in the files maintained by the Department of the Interior relating to each settlement act.

Arizona State Trust Lands Research, Arizona

Research historian for a study regarding the State of Arizona's claim for a federally reserved water right on state trust lands, including a review of congressional intent in granting trust lands to the state and the subsequent administration of trust lands. Responsibilities included researching Arizona State Land Department records, legislative histories of both federal and state laws, client consultation, and report writing.

Tri-State Mining District Natural Resource Damage Allocation, Missouri and Kansas
Research historian for a study regarding a possible natural resource damage allocation (NRDA) claim resulting from lead and zinc mining in the Missouri and Kansas portion of the Tri-State Mining District. Responsibilities included research at the EPA Region 7 offices in Kansas and at archival repositories in Missouri and Kansas, document review and organization, and report writing.

Industrial Site PRP Research, Port Angeles, Washington
Research historian and report author for a project that detailed the history of industrial activities along Ediz Hook in Port Angeles, Washington. The study required research in city and county records, as well as in the records maintained by local historical societies and libraries. After conducting this research, HRA produced a timeline, detailing the industrial activities and corporate histories of the various companies located along Ediz Hook.

Natural Resource Damage Study—Whittaker-Bermite Site, Los Angeles County, California
Research historian for a project involving the history of the federal government's involvement in the deposition of waste at a munitions facility in southern California. The research included a review of documents maintained by the ordnance departments of the U.S. Army and Navy.

Owen Street Research, Missoula, Montana
Research historian for a study of the original platting and intended use of Owen Street in Missoula, Montana. Responsibilities included research of county court records, research and analysis of early plat maps and Sanborn Fire Insurance maps, and report writing.

Lochsa Land Exchange EIS, Idaho
Project historian responsible for researching and writing a historic context report pertaining to a proposed land exchange on the Clearwater, Nez Perce, and Idaho Panhandle National Forests in Idaho.

National Park Service Abandoned Mining Lands, Montana, Wyoming, Colorado, Utah
Project historian and report editor for a study documenting historic sites related to abandoned mining areas within five national parks in the West.

Weber Dam Historic Context, Walker River Indian Reservation, Nevada
Research historian responsible for researching and writing a historical context report relating to the construction of the Weber Dam on the Walker River Indian Reservation in Nevada between 1933 and 1937.

Beartooth Highway National Register Nomination, Cooke City, Montana
Research historian responsible for researching and writing portions of a historic context report pertaining to the construction of the Beartooth Highway, a scenic national-park approach road located in Montana and Wyoming that leads into Yellowstone National Park.

Miller Creek Road EIS, Missoula, Montana
Research historian responsible for conducting fieldwork and writing a historic context, as part of a larger EIS pertaining to proposed alterations to Miller Creek Road, located in the southwestern part of Missoula, Montana.

Cultural Resources Inventory of U.S. Army's Yakima Training Center, Kittitas and Yakima Counties, Washington

Research historian responsible for researching and writing a brief historical overview of the construction of the Milwaukee Road through eastern and central Washington to provide a historic context for railroad-related sites bordering on and located within Yakima Training Center boundaries.

THESES AND DISSERTATIONS

Smith, Ian. "From Subsistence to Dependence: The Legacy of Reclamation and Allotment on Quechan Indian Lands, 1700-1940." M.A. Thesis, University of Montana, 2010.

ARTICLES

Greenwald, Emily, and Ian Smith. "Bury My Documents in Lenexa, Kansas: Expert Witness Work and the American Indian Records Repository." *The Public Historian* 37, no. 1 (Feb. 2015): 39-45.

PRESENTATIONS

"From Subsistence to Dependence: The Legacy of Reclamation and Allotment on the Fort Yuma Indian Reservation, 1890-1940," American Society for Environmental History Annual Conference, Houston, Texas, March 2005.

"Bury My Documents in Lenexa, Kansas: Problems of Access and Accessibility at the American Indian Records Repository," ILPC/TICA Indigenous Law Conference, Michigan State University College of Law, November 2015.

"The Judge and the Historian," National Council on Public History Annual Conference, Baltimore, Maryland, March 2016. [presentation forthcoming]

PROFESSIONAL AFFILIATIONS

National Council on Public History

American Society for Environmental History

Montana Historical Society

SCHOLARSHIPS AND AWARDS

Susan Koch Library Research Scholarship, Mansfield Library, University of Montana, 2004.

Exhibit 1 to Affidavit of Ian Smith

Appendix B. Expert Testimony, 2012-2015, and Current Billing Rate

***Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District, et al.*, United States District Court, Central District of California, Case No. EDCV 13-883-JGB**

I submitted an expert historical report in this case in September 2014, analyzing the purposes for the creation of the Agua Caliente Indian Reservation in southern California in relation to the Tribe's claims to groundwater rights. The case has not yet required testimony at either deposition or trial.

***United States v. Joseph Joshua Jackson*, United States District Court, District of Minnesota, Case No. 10-151-DWF-LIB**

I submitted an expert historical report and served as an expert witness at trial in this case, which pertained to the alleged diminishment of the Red Lake Indian Reservation under a 1905 law that authorized the sale of a tract of reservation lands to a railroad company. I provided testimony at trial, on behalf of the plaintiff, in federal court in August 2013. The U.S. District Court found in favor of the United States in May 2014.

***Freedom from Religion Foundation v. Chip Weber, et al.*, United States District Court for the District of Montana, Missoula Division, Case No.**

I submitted an expert historical report and served as an expert witness for this case relating to the history of a statue of Jesus that was placed on the Whitefish Mountain Resort ski area in western Montana in the early 1950s. I provided deposition testimony in this case on behalf of the defendant (U.S. Forest Service) in October 2012. The U.S. District Court found in favor of the United States in 2013, and the Ninth Circuit Court of Appeals upheld the lower court's ruling in August 2015.

My billing rate for this current case is $94 per hour.

A Response to the Expert Report of Stephen Wee Regarding the Establishment of and Purposes for the Coeur d'Alene Indian Reservation

Submitted to:
U.S. Department of Justice

Submitted by:
Historical Research Associates, Inc.
Ian Smith, M.A.

Missoula, Montana
May 26, 2016

HISTORICAL
RESEARCH
ASSOCIATES, INC.

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1. Introduction

In April 2015, the U.S. Department of Justice (DOJ) contracted with Historical Research Associates, Inc. (HRA) to conduct research and provide expert an historical analysis of the purposes for the creation of the Coeur d'Alene Indian Reservation in northern Idaho. Attorneys with the DOJ and the Department of the Interior Solicitor's Office (DOI-Solicitor) requested this historical analysis in relation to the Coeur d'Alene Indian Tribe's water rights claims in the Coeur d'Alene–Spokane River Basin Adjudication (CSRBA), which are currently under consideration in the State of Idaho's Fifth Judicial District for Twin Falls County in Case No. 49576.

On November 30, 2015, I submitted an expert report in the CSRBA, analyzing the events that led to the creation of the Coeur d'Alene Indian Reservation by executive order in November 1873. My report also examined the Tribe's reliance on traditional subsistence activities such as fishing, hunting, root digging, and berry gathering along the waterways within the reservation, including Lake Coeur d'Alene and the Coeur d'Alene, Spokane, and St. Joseph Rivers. In that report, I concluded that tribal members continued to rely extensively on these waterways and to engage in these centuries-old subsistence activities both before and after the 1873 creation of the reservation. Moreover, I found that the historical record indicated that the purposes for the reservation's creation were broad, encompassing traditional subsistence practices such as fishing, hunting, and gathering, in addition to agriculture.

Stephen Wee submitted his expert report in the CSRBA entitled, "Establishment of the Coeur d'Alene Indian Reservation and the Transformation of Coeur d'Alene Land and Water Use, from Contact through Allotment" (Wee Report) on February 25, 2016. In that report, Mr. Wee argues, among other things, that the Coeur d'Alene Reservation was not formally established until 1891, when Congress enacted a law approving two agreements with the Tribe negotiated in 1887 and 1889. He additionally asserts that tribal members had largely abandoned traditional subsistence activities by the early 1870s in favor of, first, bison hunting then agriculture. As a result, Mr. Wee maintains that the primary purpose for the creation of the reservation was narrowly agricultural, rather than reflecting the broader homeland purposes that the historical record shows.

The rebuttal report that follows will respond to these primary arguments in the Wee Report, first by reiterating that the reservation was formally established in 1873 and that subsequent actions by federal officials both acknowledged and approved the reservation's creation. Second, my reply will show that Mr. Wee's analysis of the impacts of both bison hunting and Euroamerican agriculture on Coeur d'Alene subsistence practices is not supported by either the historical or the anthropological record. In contrast to the assertions made in the Wee Report, tribal members continued to rely on traditional subsistence activities and tribal waterways before and after 1873. Finally, my report will

conclude with a discussion of additional interpretive issues and inconsistencies in the Wee Report, including his inaccurate analysis of the 1906 Coeur d'Alene Allotment Act and the lack of primary source support for his conclusions regarding tribal farming activities prior to 1873.

The inconsistencies and inaccuracies discussed in my response to the Wee Report relate to fundamental issues in the CSRBA involving the establishment of the Coeur d'Alene Indian Reservation and the purposes for its creation. Moreover, they call into question the reliability of the other findings and conclusions offered in the Wee Report, as well as more broadly casting doubt on the credibility of Mr. Wee's expert analysis as a whole.

2. Responses to the Wee Report

2.1 The Coeur d'Alene Indian Reservation Was Established in 1867-1873, not in 1891

Throughout Stephen Wee's expert witness report entitled "Establishment of the Coeur d'Alene Indian Reservation and the Transformation of Coeur d'Alene Land and Water Use, From Contact Through Allotment" (Wee Report), Wee continually suggests that the Coeur d'Alene Indian Reservation was not established until 1891, when Congress enacted a law approving two agreements negotiated with the Tribe in 1887 and 1889. As shown more fully in my expert report entitled "Historical Examination of the Purposes for the Creation of the Coeur d'Alene Indian Reservation," Wee's argument that the reservation was not "formally" or "finally" established until 1891 is not supported by the historical record. Moreover, his argument implicitly questions the validity of an executive order reservation.[1]

Wee peppers his assertions about the alleged 1891 establishment of the Coeur d'Alene Indian Reservation throughout his report. For example, in the introduction, he states that the "[u]ltimate establishment of a reservation for the Coeur d'Alene" occurred in 1891, as well as implying that it was not fully created until three years later following the 1894 sale of a "one-mile-by-15-mile strip" that included the town of Harrison, Idaho. Wee also claims that the reservation "was not formally accepted by the federal government until the late 1880s" and that Congress and the Tribe did not "establish finally a reservation for the Coeur d'Alene" until 1891. According to Wee, it was not until 1891 that the Tribe "finally secured the reservation they had sought for more than four decades."[2]

Although the Wee Report acknowledges the existence of the executive orders dated June 14, 1867, and November 8, 1873, under which Presidents Andrew Johnson and Ulysses Grant set aside lands "as a reservation for the Coeur d'Alene Indians," it does so by emphasizing the purportedly "un-ratified" nature of the 1867 and 1873 executive orders and by employing terminology such as "the un-ratified 1873 executive order reservation." Likewise, in his conclusion, Wee asserts that Congress "never ratified" the "1873 executive-order reservation" and did not seek to "establish a permanent reservation for the Coeur d'Alene" until "the late 1880s."[3]

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[1] Stephen Wee, JRP Historical Consulting, LLC, "Establishment of the Coeur d'Alene Indian Reservation and the Transformation of Coeur d'Alene Land and Water Use, From Contact Through Allotment," submitted to Office of the Attorney General, State of Idaho, February 25, 2016 [Wee Report]. For the use of the quoted terms "formally" and "finally" in reference to the alleged 1891 establishment of the reservation, see pages 25, 52.

[2] Wee Report, 3–4, 25, 52.

[3] Wee Report, 64, 168. See also Executive Order, November 8, 1873, in Charles J. Kappler, ed., *Indian Affairs: Laws and Treaties*, vol. 1 (Washington, D.C.: GPO, 1904), 837, USA-CDA00001713.

Some of Wee's statements regarding the alleged 1891 creation of the Coeur d'Alene Indian Reservation are factual inaccuracies, while others reflect interpretive inconsistencies that appear to be driven by an effort to question the legitimacy of an executive order reservation. Perhaps the most obvious example of the former is Wee's claim on page 25 that "a Coeur d'Alene Reservation was not formally accepted by the federal government until the late 1880s." From a historical perspective, the actions taken by Presidents Andrew Johnson and Ulysses Grant in 1867 and 1873 to "set apart" lands "as a reservation for the Coeur d'Alene Indians" serve as an unequivocal example of high-ranking federal officials "formally" accepting the Coeur d'Alene Reservation long before "the late 1880s."[4]

Moreover, Congress's ratification of the March 26, 1887, agreement with the Coeur d'Alene Tribe—which included a provision confirming "the boundaries of their present reservation"—renders false Wee's statement on page 168 that Congress "never ratified" the 1873 reservation. In addition to being "accepted, ratified, and confirmed" by Congress on March 3, 1891, the 1887 agreement also clearly revealed federal officials' acknowledgement of the existence of the "present Coeur d'Alene Reservation" in Articles 1–2, the boundaries of which had been established by President Grant in November 1873. Furthermore, the congressionally ratified 1887 agreement stipulated in Article 5 that:

> [T]he Coeur d'Alene Reservation shall be held forever as Indian land and as homes for the Coeur d'Alene Indians, now residing on said reservation, and the Spokane or other Indians who may be removed to said reservation under this agreement, and their posterity: and no part of said reservation shall ever be sold, occupied, open to white settlement, or otherwise disposed of without the consent of the Indians residing on said reservation.[5]

Less than two months before the negotiation of the March 1887 agreement, Congress enacted the General Allotment Act (commonly known as the Dawes Act). In authorizing the President of the United States to allot lands on Indian reservations nationwide, the Dawes Act made no distinction between reservations created by executive order, by treaty, or by legislation. Specifically, the Dawes Act allowed for allotments "in all cases where any tribe or band of Indians has been, or shall hereafter be, located upon any reservation created for their use, either by treaty stipulation or by virtue of an act of Congress or executive order setting apart the same for their use."[6]

The historical record includes numerous additional instances of federal officials recognizing the Coeur d'Alene Indian Reservation prior to the Dawes Act, the 1887 Coeur d'Alene agreement, and the 1891 act ratifying it. Wee himself cited to one such example on pages 57–58 of his report. There, he quoted Acting Commissioner of Indian Affairs E. L. Stevens's June 2, 1884, letter responding to Idaho Congressional Delegate Theodore Singiser's proposal to restore "to the public domain" all

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[4] Wee Report, 25; Executive Orders of June 14, 1867, and November 8, 1873, in Kappler, *Indian Affairs: Laws and Treaties*, vol. 1, 836–837, USA-CDA00001713.

[5] Act of March 3, 1891, 26 Stat. 989 at 1026–1028, USA-CDA00021598; Wee Report, 168.

[6] Act of February 8, 1887, 24 Stat. 388, USA-CDA00021885.

reservation lands lying east of Lake Coeur d'Alene between Wolf Lodge Creek and the St. Joseph River.[7]

While Singiser's request alone reflected his recognition of the reservation's existence and prior establishment, the acting commissioner's response left no doubt about the Indian Office's formal approval of the reservation and the desire to maintain its 1873 boundaries. As Wee indicated in his report, Stevens told Singiser that "this Office is decidedly opposed to reducing the reservation in question in any quarter," noting that the government had "just been to the expense of having the outboundaries of the reservation surveyed and marked" and that federal officials intended to "gather the scattering Indians at Spokane Falls and vicinity on the Coeur d'Alene reservation."[8]

Seven months earlier, on November 14, 1883, Commissioner of Indian Affairs Hiram Price had written to Colville Agent Sidney Waters in an effort to allay the reported "fear" of Coeur d'Alene tribal members that "some steps are about to be taken looking to the opening of a portion of their reservation to white settlement." In response, Commissioner Price instructed Waters to tell the Coeur d'Alene Indians:

> that no effort is being made so far as this Office knows, by anyone, to have any portion of their reservation opened to settlement, and that any such movement would be opposed by this Office, unless, for reasons that do not now appear, their well being would be promoted thereby, in which case it is likely the Indians themselves would be consulted before any decisive steps were taken.[9]

In an effort to further reassure tribal members about the federal government's intentions to maintain and protect the 1873 boundaries of their reservation, Price wrote another letter in October 1884 stating that the "assurances conveyed" to the Indians in his November 14, 1883, letter "may be repeated." He also directed Agent Waters to inform Coeur d'Alene Chief Andrew Seltice that there was "no effort being made through this Department by anyone looking to the reduction of their reservation and that the message sent to the Indians through you last November (to which the Chief refers) holds good today."[10]

During the 1880s, federal officials also undertook efforts to protect reservation lands from various forms of trespass, including timber cutting, mineral exploitation, and liquor traffic.[11] Perhaps

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[7] Wee Report, 57–58; T. F. Singiser, Delegate from Idaho, to H. M. Teller, Secretary of the Interior, April 25, 1884, Letter 8588-1884, Entry 91: Letters Received by the Office of Indian Affairs, 1881–1907 [LR 1881–1907], Record Group 75: Records of the Bureau of Indian Affairs [RG 75], National Archives and Records Administration, Washington, D.C. [NARA I], USA-CDA00005261.

[8] E. L. Stevens, Acting Commissioner of Indian Affairs, to T. F. Singiser, House of Representatives, June 2, 1884, Land Division Letter Book 126, pp. 146–148, Volume 63, Entry 96: Letters Sent by the Office of Indian Affairs, 1870–1908 [LS 1870–1908], RG 75, NARA I, USA-CDA00021553.

[9] H. Price, Commissioner of Indian Affairs, to Sidney D. Waters, Indian Agent, Colville Agency, November 14, 1883, Land Division Letter Book 118, pp. 372–374, Volume 59, LS 1870–1908, RG 75, NARA I, USA-CDA00021545.

[10] Price to Waters, October 2, 1884, Land Division Letter Book 130, p. 187, Volume 65, LS 1870–1908, RG 75, NARA I, USA-CDA00021557.

[11] See, for example, James O'Neill, Resident Farmer, Coeur d'Alene Reservation, to John A. Simms, Indian Agent, Colville Agency, August 24, 1882, in *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1882* [ARCIA 1882], 214, USA-CDA00004281; Simms to the Commissioner of Indian Affairs, August 15, 1883, in ARCIA 1883, 200, USA-CDA00004290; O'Neill to Sidney D. Waters, Indian Agent, Colville Agency, July 26, 1884, in

the most notable example of such efforts resulted in a July 27, 1886, report by Lieutenant Colonel H. M. Lazelle on the illegal sale of liquor within reservation boundaries aboard a steamer named the "Coeur d'Alene." Serving as an acting inspector general for the U.S. Army, Lazelle had been ordered to investigate alleged liquor sales within the boundaries of the Coeur d'Alene Indian Reservation by the "Headquarters Department of the Columbia." Reporting his findings that the owners of the "Coeur d'Alene" steamer had violated existing laws through the "willful introduction, storage, and sale of liquor within the limits of the Indian reservation," Lazelle indicated that nearly the entirety of Lake Coeur d'Alene (the waters of which had been plied by the steamer), along with "about twenty-five miles" of the Coeur d'Alene River, was within the existing boundaries of the Coeur d'Alene Reservation. He wrote:

> It is to be observed that, with the exceptions of a few indentations on its northern coast, the entire lake of Coeur d'Alene, and about twenty-five miles of the river of Coeur d'Alene—from the mouth up, as far as the landing on that river, known as the "Old Mission"—lay wholly within the Coeur d'Alene Indian Reservation.[12]

Lazelle's July 1886 report is especially compelling in light of Wee's assertions that the Coeur d'Alene Indian Reservation was not "formally" or "finally" established until 1891. Contrary to Wee's argument, Lazelle's investigation of liquor sales within the reservation's borders unequivocally showed not only formal recognition of reservation boundaries by government officials, but also an earnest effort to uphold laws prohibiting the sale of alcohol on Indian lands. As Lazelle indicated, he completed his report at the request of high-ranking officials within the War Department, who had been notified about the issue by the "Honorable Secretary of the Interior," through a letter from the "Honorable Commissioner of Indian Affairs." Moreover, two weeks after Lazelle issued his report, the secretary ordered the commissioner to provide an "immediate report and recommendation" on the "violation of law" that had occurred on the Coeur d'Alene Indian Reservation.[13]

Reporting on August 14, 1886, Acting Commissioner A. B. Upshaw told the secretary that he planned to revoke the steamboat operator's "license as trader" on the reservation. Furthermore, Upshaw strongly encouraged the secretary to provide a copy of Lazelle's report to the U.S. attorney general "for his information" and for use in his ongoing investigations of the incident. Upshaw also agreed with Lazelle's proposal to require a bond from individuals operating "steamers plying on the Lake," telling the secretary that he would "instruct the Indian Agent to notify all parties running or proposing to run steamers on the route through the reservation that bonds will be required for the faithful observance of the trade, intercourse and liquor laws."[14]

ARCIA 1884, 205–206, USA-CDA00004299; Waters to the Commissioner of Indian Affairs, August 12, 1884, in ARCIA 1884, 203, USA-CDA00004299.

[12] H. M. Lazelle, Lieut. Col., Acting Inspector General, to Adjutant General, U.S. Army, July 27, 1886, Letter 21307-1886, Letters Received 1881–1907, RG 75, NARA I, USA-CDA00005475.

[13] Lazelle to Adjutant General, July 27, 1886, USA-CDA00005475; and H. L. Muldrow, 1st Asst. Secretary, August 11, 1886, USA-CDA00005484; both in Letter 21307-1886, Letters Received 1881–1907, RG 75, NARA I.

[14] A. B. Upshaw, Acting Commissioner of Indian Affairs, to Secretary of the Interior, August 14, 1886, Land Division Letter Book 151, pp. 114–116, Volume 76, LS 1870–1908, RG 75, NARA I, USA-CDA00021879.

Government reports and maps produced during the period between the March 1887 agreement and the Act of March 3, 1891, provided additional evidence of federal officials' acknowledgement of the Coeur d'Alene Reservation boundaries, as established in November 1873. In fact, Congress itself recognized the existence of the 1873 reservation in the legislation that authorized the March 1887 negotiations with the Tribe. In that law, Congress appropriated money to pay the costs of negotiating with Coeur d'Alene leaders "for the cession of their lands outside the limits of the present Coeur d'Alene reservation."[15]

Meanwhile, in February 1888 reports to Congress, both the acting secretary of the interior and the commissioner of Indian affairs stated that the Coeur d'Alene Indian Reservation encompassed "an area of 598,500 acres, or 935 square miles." Commissioner J. D. C. Atkins specifically referenced the "executive order of 1873" as having "defined" the reservation's boundaries. Furthermore, Atkins asserted that the Coeur d'Alene Indians still retained "all the original Indian rights" in all of their aboriginal lands, indicating that the 1873 reservation "embraces only a portion of the lands to which they laid claim." Notably, he also stated that the Tribe's land claims, which included their "present reservation," had been "recognized in various ways and at sundry times" by federal officials in both the Interior Department and in Congress. Atkins wrote:

> In conclusion I will state that in my opinion these Indians have all the original Indian rights in the soil they occupy. They claimed the country long before the lines of the reservation were defined by the executive order of 1873, and the present reservation embraces only a portion of the lands to which they laid claim. This claim has been recognized in various ways and at sundry times, and the last Congress authorized the Secretary of the Interior to negotiate with them "for the cession of their lands outside the limits of the present Coeur d'Alene Reservation to the United States."[16]

Although the Wee Report quoted a portion of Atkins's statement and claimed that it represented a "defense of tribal title to the reservation lands," Wee concluded that the commissioner's February 1888 report "proved fatal to the 1887 agreement." Once again, Wee's assessment is not supported by the historical record, given that Congress "ratified" and "confirmed" the 1887 agreement four years after its negotiation.[17] The consistent references made by the commissioner of Indian affairs in his 1874–1890 annual reports regarding the 1867–1873 establishment of the Coeur d'Alene Indian Reservation further contradict Wee's assertions about the alleged lack of federal approval of the reservation before 1891.[18]

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[15] Act of May 15, 1886, 24 Stat. 29 at 44, USA-CDA00021560.

[16] Senate, *Letter from the Secretary of the Interior, Transmitting, in Response to Senate Resolution of January 25, 1888, Information About the Coeur d'Alene Indian Reservation, in Idaho*, 50th Congress, 1st session, February 13, 1888, S. Ex. Doc. 76, serial 2510, 2–3, 7, USA-CDA00021564.

[17] Wee Report, 71; Act of March 3, 1891, 26 Stat. 989 at 1026–1028, USA-CDA00021598.

[18] ARCIA 1874, 134, USA-CDA00021835; ARCIA 1875, 136, USA-CDA00021847; ARCIA 1876, 237, USA-CDA00021849; ARCIA 1877, 247, USA-CDA00021854; ARCIA 1878, 248–250, USA-CDA00021860; ARCIA 1879, 219, USA-CDA00021865; ARCIA 1880, 229, USA-CDA00021867; ARCIA 1881, 263, USA-CDA00021869; ARCIA 1882, 304, USA-CDA00021871; ARCIA 1883, 226–227, USA-CDA00021873; ARCIA 1884, 257, USA-CDA00021875; ARCIA 1885, 326, USA-CDA00021877; ARCIA 1886, 382, USA-CDA00021883; ARCIA 1887, 303, USA-CDA00021890; ARCIA 1888, 361, USA-CDA00021892; ARCIA 1889, 485, USA-CDA00021894; ARCIA 1890, 436, USA-CDA00021902; ARCIA 1891, pt. 2, 110, USA-CDA00021904. Notably, for the establishment of the Coeur

Finally, it is worth noting that, in February 1888, the Senate published three maps produced by federal officials during the previous five years, all of which depicted the reservation's boundaries as established by executive order in November 1873. Senate Executive Document 76—which also included the above-mentioned reports by Commissioner Atkins and Acting Secretary H. L. Muldrow—thus provided clear visual and textual evidence of federal officials' formal recognition and approval of the 1873 Coeur d'Alene Indian Reservation. (See Figures 1–3 below)

d'Alene Reservation, the 1891 annual report listed the 1867 and 1873 executive orders, as well as the 1887 and 1889 agreements—which the report indicated were "confirmed in Indian appropriation act, approved Mar. 3, 1891"—under the column "Date of treaty, law, or other authority establishing reserve." The 1891 report also listed the reservation as containing 413,440 acres, whereas the 1884–1890 annual reports showed that the reservation contained 598,500 acres. Previously, the 1874–1883 annual reports had estimated the acreage of the Coeur d'Alene Reservation as 736,000 acres, since its exterior boundaries had not yet been surveyed.

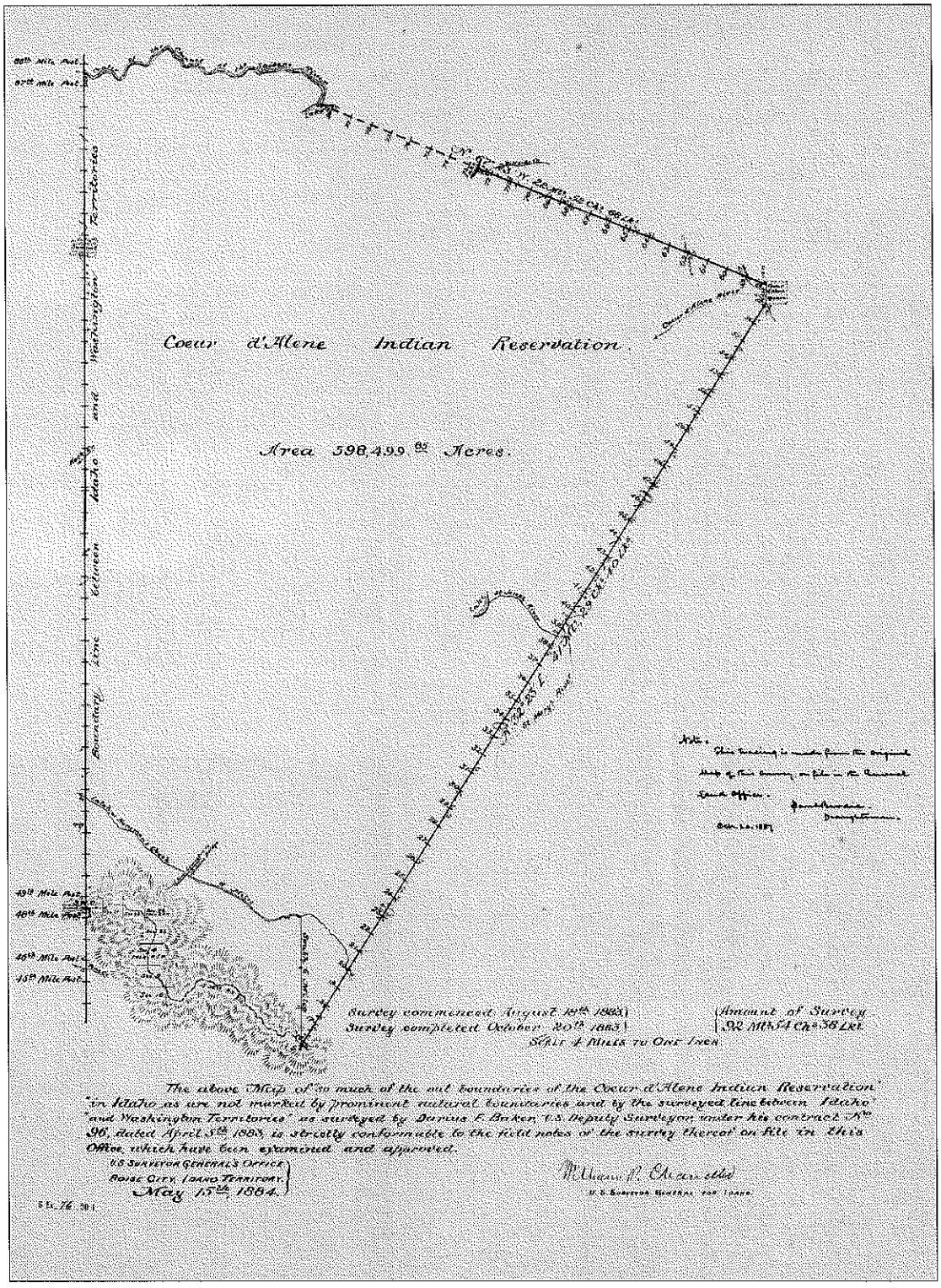

Figure 1. 1883 General Land Office Survey Plat, Coeur d'Alene Indian Reservation.
Source: Senate, 50th Congress, 1st session, S. Ex. Doc. 76, serial 2510, USA-CDA00021564.

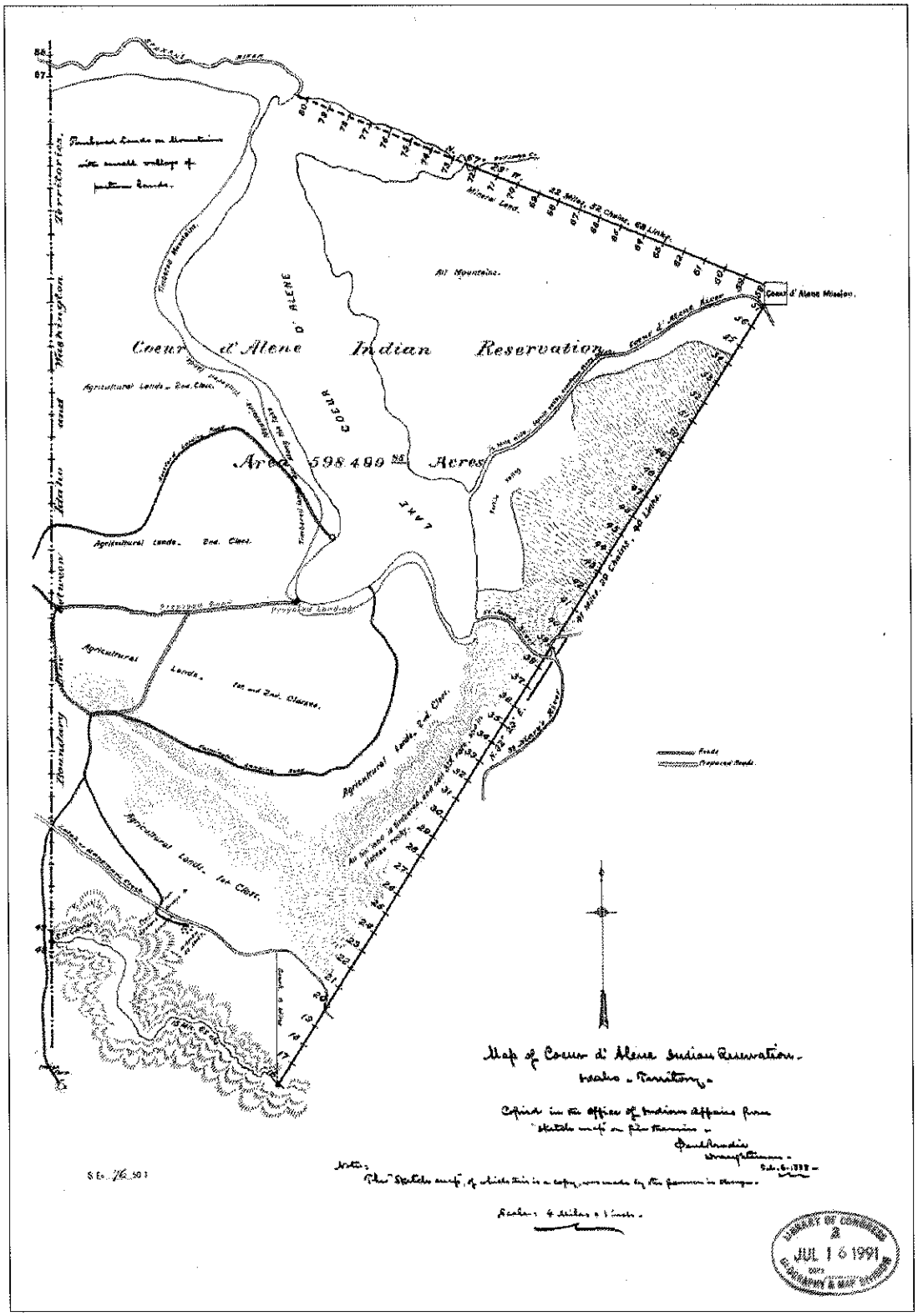

Figure 2. "Map of Coeur d'Alene Indian Reservation, Idaho Territory," February 6, 1888.
Source: Senate, 50th Congress, 1st session, S. Ex. Doc. 76, serial 2510, USA-CDA00021564.

Exhibit 2 to Affidavit of Ian Smith

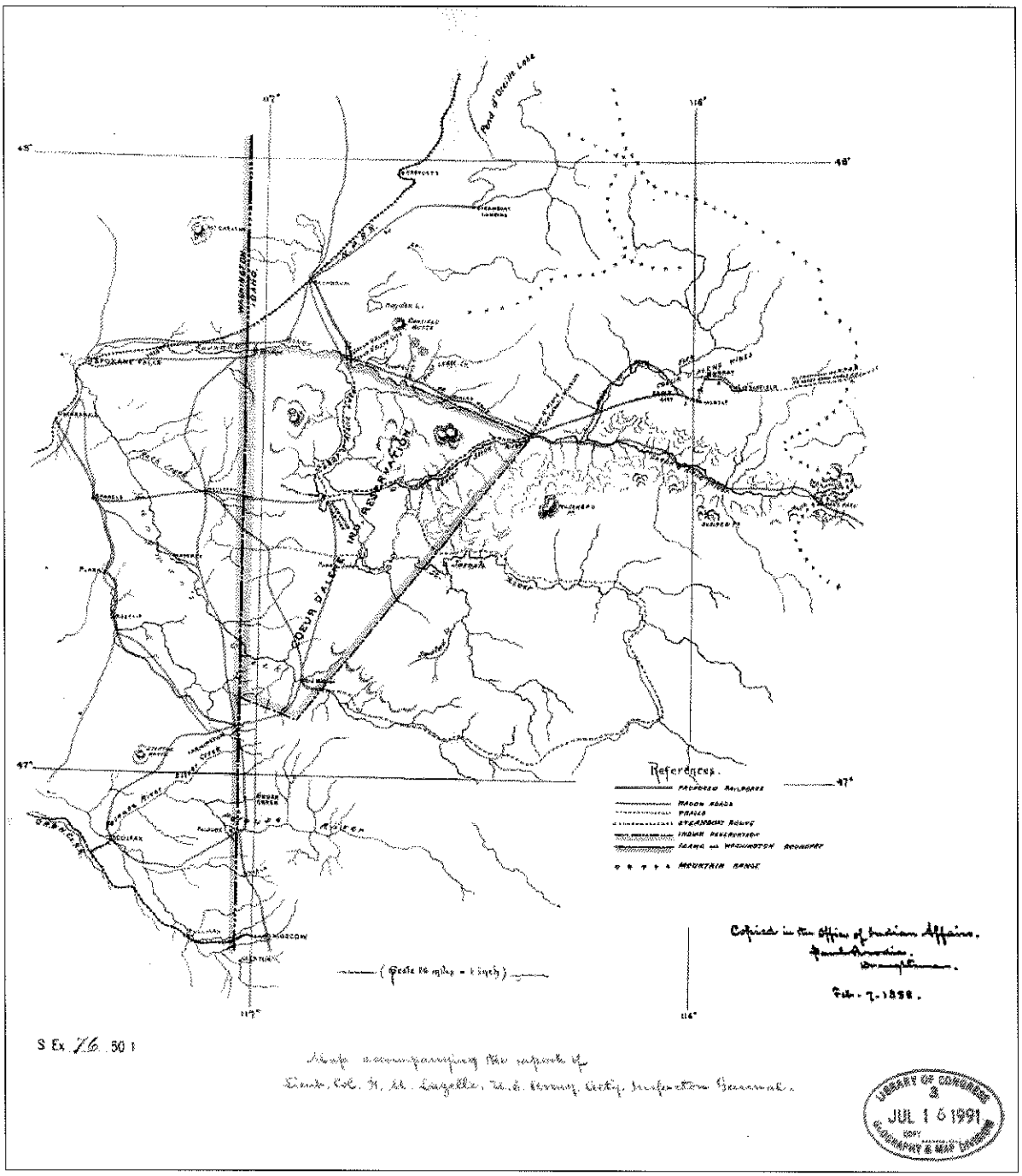

Figure 3. "Map Accompanying the Report of Lieut. Col. H. M. Lazelle," circa July 27, 1886.
Source: Senate, 50th Congress, 1st session, S. Ex. Doc. 76, serial 2510, USA-CDA00021564.

Exhibit 2 to Affidavit of Ian Smith

2.2 The Purposes for the Creation of the Coeur d'Alene Indian Reservation were Broader than Agriculture

As with his argument that the Coeur d'Alene Indian Reservation was not "formally" or "finally" established until 1891, Wee suggests throughout his report that agriculture was the primary reason for the reservation's creation. For example, Wee states on page 147 that "Tribal devotion to Euro-American agriculture" was "the linchpin of the Coeur d'Alene argument for a reservation." Likewise, the introduction to the Wee Report asserts that "tribal arguments for a reservation made to federal officials emphasized Coeur d'Alene agricultural progress," while Wee's conclusion claims that Coeur d'Alene petitions for a reservation largely focused on "the tribe's growing farming enterprises."[19]

Wee's assertions regarding the purportedly narrow, agriculturally based purposes for which the reservation was created stem from several interrelated arguments embedded in his report. First, his above-mentioned claims regarding the alleged 1891 establishment of the reservation lead him to focus a significant portion of his analysis on the decades following President Grant's 1873 executive order, rather than the period leading up to November 1873. This, in turn, leads him to portray pre-1873 events through a post-1873 (and even post-1900) lens. Second, in his assessment of pre-1873 historical events, the Wee Report overstates the extent to which tribal members relied on agriculture and reportedly abandoned traditional subsistence activities in favor of bison hunting and farming. Finally, Wee's analysis of tribal members' relocation to the modern-day DeSmet area inaccurately claims that this movement occurred prior to 1873, while also failing to account for the ongoing importance of traditional subsistence activities in the decades following the reservation's creation.

2.2.1 The Importance of Traditional Subsistence Activities and Waterways in the Creation of the 1873 Reservation

Although Wee acknowledges that the 1873 Coeur d'Alene Indian Reservation was intended to "support both their [the Indians'] advancing agricultural progress and their traditional subsistence hunting and gathering," he suggests that the Tribe's non-agricultural activities were only intended to occur for a short period of time. To support this, Wee focuses, in particular, on one phrase within the Tribe's November 1872 petition for an expanded reservation, where tribal leaders stated that they needed to continue their traditional subsistence activities "for a while yet." Notably, the Wee Report quotes this four-word clause in both the introduction and conclusion within paragraphs discussing the reservation's creation.[20]

Wee's emphasis on this portion of the Tribe's 1872 petition, however, does not adequately acknowledge the importance of the Tribe's traditional subsistence activities such as fishing, hunting, and gathering both prior to and after the reservation's 1873 establishment. Likewise, Wee's analysis understates tribal members' deep connection to Coeur d'Alene waterways, as well as failing to

[19] Wee Report, 3, 147, 167.

[20] Wee Report, 3, 167.

account for the significance that tribal leaders placed on including these resources within the 1873 reservation. The Coeur d'Alenes' November 1872 petition clearly reflected these issues, indicating that the Tribe was "unanimous" in asking for the inclusion of "the two valleys of S. Joseph and Coeurs d'alene rivers" in their reservation. In fact, waterways such as these were so important that tribal leaders thought it "a matter of course" that they would be included in their reservation.[21]

Contrary to Wee's focus on agriculture as the primary purpose for the reservation, Coeur d'Alene leaders stated that the additional lands they sought along these waterways were not well-adapted to farming. In fact, they believed that "no white man could ever settle there," since the valleys along the Coeur d'Alene and St. Joseph Rivers were "under water" each spring and since whites had yet to settle there. Also, the Tribe had already "fenced in and cultivated" those "few spots which usually escape being inundated." Tribal leaders further indicated that their request for this expanded acreage along Coeur d'Alene waterways—which were "from old the habitual residence of most of us"—would be "too much" if these lands "were fit for farming." However, the Tribe argued that "the far greatest part of it is either rocky, or too dry, too cold, or swampy." Moreover, tribal leaders stated, "besides we are not as yet quite up to living on farming."[22]

Read in connection with the remainder of the November 1872 petition, the Coeur d'Alene leaders' request for an expanded reservation that would support the Tribe's traditional subsistence activities "for a while yet" showed the ongoing and vital importance of fishing, hunting, and gathering for tribal members—a fact that is additionally reflected in the Tribe's continuing reliance on such activities in the decades following 1873. The entire sentence within which this phrase is embedded also supports this interpretation, as well as revealing the inherently gradual nature of the adaptations that were occurring in tribal lifeways during the last three decades of the nineteenth century. Although some tribal members began to incorporate agriculture within their broader subsistence patterns in the 1870s, Coeur d'Alene leaders stated, "We think it hard to leave at once old habits to embrace new ones: for a while yet we need have some hunting and fishing."[23]

Other documents written during the period leading up to President Grant's November 1873 executive order establishing the Coeur d'Alene Reservation further revealed the continuing importance of traditional subsistence activities and the significance of tribal waterways. For example, General Land Office (GLO) Deputy Surveyor David Thompson wrote in May 1873 that if the Tribe's principal fisheries on Lake Coeur d'Alene and the St. Joe and Coeur d'Alene Rivers were "excluded" from their reservation, there would "be trouble with these Indians." However, if the government expanded the reservation to include the Coeur d'Alene fisheries—along with "the

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[21] Petition of the "Chiefs and People of the Coeurs D'Alene," November 18, 1872, C-417, Roll 912, National Archives Microfilm Publication M234: *Letters Received by the Office of Indian Affairs, 1824–1881* [hereinafter cited as M234], frames 868–872, USA-CDA00021418.

[22] Petition of the "Chiefs and People of the Coeurs D'Alene," November 18, 1872, C-417, Roll 912, M234, frames 868–872, USA-CDA00021418.

[23] Petition of the "Chiefs and People of the Coeurs D'Alene," November 18, 1872, C-417, Roll 912, M234, frames 868–872, USA-CDA00021418.

[Cataldo] Mission," which Thompson believed "should also be in the Reserve"—he argued, "there will be no trouble."[24]

As with the Tribe's November 1872 petition, Thompson's letter six months later emphasized the non-agricultural nature of the lands proposed for addition to the then-20-square-mile Coeur d'Alene Reservation created in 1867. According to Thompson, "The section of country to be included is almost worthless as an agricultural country but will include the fisheries on the lake and on the St. Josephs River." By contrast, Thompson noted that extending the northeastern boundary only to the "old Mission" on the lower St. Joseph River (as the 1867 executive order had done) would fail to "include the fisheries on either the lake or River." He further claimed that "no settlers" held lands within the proposed enlargement of the reservation.[25]

Although Thompson indicated that he had "never been at the Lake or at the Mission," he sketched "a rough diagram of what the Reserve should be," which he included with his letter to Idaho's surveyor general. Due to his admitted lack of familiarity with the geography of the Coeur d'Alene region, Thompson's "rough diagram" incorrectly depicted the location of Lake Coeur d'Alene as lying mostly north of the proposed new northern boundary of the reservation. However, by placing the lake and the Spokane and Coeur d'Alene Rivers in their appropriate locations in relation to other geographic markers shown on the "rough diagram"—including the "New Mission" at Cataldo—Thompson's proposed enlargement roughly approximated the addition made by President Grant the following November.[26] (See Figure 4)

Notably, Wee incorrectly suggests in his report that Thompson's diagram and proposed expansion of the reservation extended only to the "old, St. Joe River Mission." Although (as noted above) Thompson's diagram was not geographically accurate with regard to its depiction of either Lake Coeur d'Alene or the Coeur d'Alene and Spokane Rivers, the sketch clearly showed that the reservation's new northeastern boundary would extend to the "New Mission" on the Coeur d'Alene River, not the "Old Mission" on the St. Joseph River. In his letter, Thompson further explained that the "old mission on the St. Josephs River" had been "abandoned" by the Jesuits "many years ago." Thus, he indicated that his references to "the Mission (as there is but one)" were intended to denote the Cataldo Mission "on the Coeur de Alene River, distant some 15 miles from the St. Josephs River."[27]

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[24] D. P. Thompson, Deputy Surveyor, to L. F. Cartee, Surveyor General, May 6, 1873, L-111, Roll 341, M234, frames 290–294, USA-CDA00021443.

[25] Thompson to Cartee, May 6, 1873, L-111, Roll 341, M234, frames 290–294, USA-CDA00021443. For the boundaries of the 1867 reservation, see Executive Order, June 14, 1867, in Kappler, *Indian Affairs: Laws and Treaties*, vol. 1, 836–837, USA-CDA00001713.

[26] Thompson to Cartee, May 6, 1873, L-111, Roll 341, M234, frames 290–294, USA-CDA00021443.

[27] Thompson to Cartee, May 6, 1873, L-111, Roll 341, M234, frames 290–294, USA-CDA00021443; Wee Report, 37. In quoting Thompson's statement that he had "never been at the Lake or at the Mission," Wee also inaccurately asserted that Thompson was making reference to the "old, St. Joe River Mission."

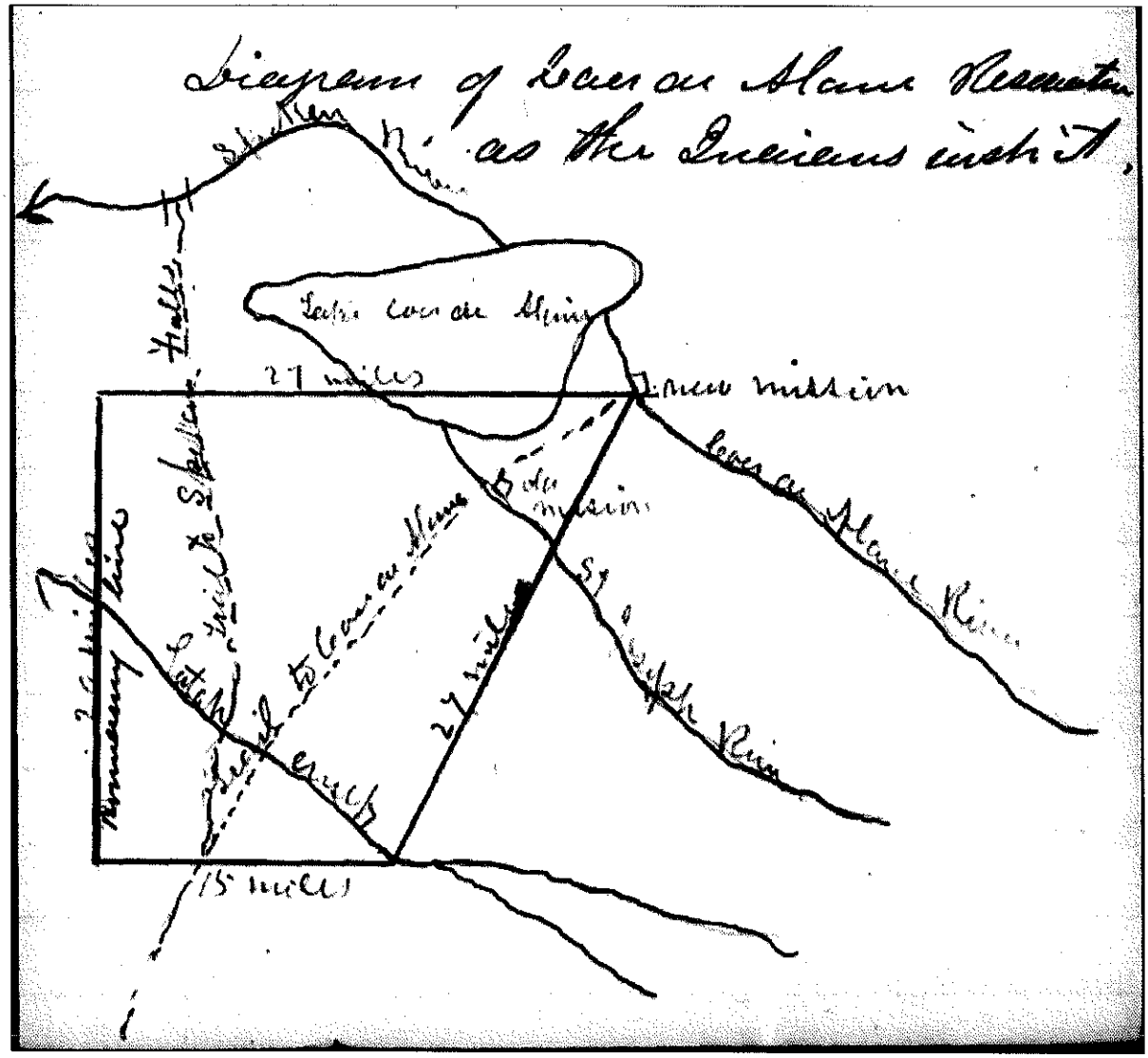

Figure 4. David Thompson, "Diagram of Coeur de Alene Reservation as the Indians Wish It," May 6, 1873. *Source*: Letter L-111, Roll 341, M234, USA-CDA00021443.

Thompson and the Coeur d'Alene Tribe were not the only ones to argue in favor of enlarging the 1867 reservation to include tribal waterways and fisheries. Writing on June 5, 1873, the Office of Indian Affairs' Catholic Commissioner Charles Ewing told Secretary of the Interior Columbus Delano that the Coeur d'Alenes did not learn of the creation of their 1867 reservation "until some two years ago," at which point "they at once said it is not large enough." Noting that tribal leaders had "designated the boundaries they desire," Ewing stressed that the Coeur d'Alenes demanded that "their settlement must be a permanent one." Once an enlarged reservation was "secured" to tribal

members "as they want it," Ewing claimed that they would become "the happiest and most devoted wards or citizens of this Republic."[28]

The new reservation boundaries outlined in a July 28, 1873, agreement between tribal leaders and federal negotiators John Shanks, Thomas Bennett, and John Monteith reflected the expanded borders desired by the Tribe. Importantly, this expansion encompassed many of the Tribe's traditional villages and principal fisheries along the Coeur d'Alene, Spokane, and St. Joseph Rivers within the lands "set apart and secure[d] as a Reservation, for the exclusive use of the Coeur d'Alene Indians." According to Monteith's August 6, 1873, summary of the negotiations, tribal leaders told the commissioners, "We wish the lines changed so as to include the new Mission [at Cataldo]." Monteith also told the commissioner of Indian affairs that, in addition to encompassing "several Indian farms around the new Mission on the Coeur De Alene river," the newly drawn boundaries would also allow the government to use "the upper falls" of the Spokane River as a mill site.[29]

Reporting on this agreement in a September 18, 1873, letter published in the *Idaho Signal*, Idaho Governor Thomas Bennett (who was also a member of the federal negotiating team) informed the newspaper's readers that "the Indians *demanded* an extension of their reservation so as to include the Catholic Mission and fishing and mill privileges on the Spokane River."[30] Notably, the July 28, 1873, agreement also included a provision protecting tribal waterways—a further indication of the importance of the region's rivers, lakes, and fisheries to the Coeur d'Alene Tribe. In particular, Article 1 of the agreement stipulated that "the waters running into said reservation shall not be turned from their natural channel where they enter said reservation."[31]

While this was a novel provision that was most likely included at the request of Coeur d'Alene leaders, the Shanks Commission likewise acknowledged the need to protect Indian fisheries and waterways in the agreement they negotiated with the Colville and other tribes in mid-August 1873. Reporting on the Colville negotiations, Shanks discussed the vital importance of fishing to the tribes in the Interior Northwest. He wrote that the relocation of the 1872 Colville Reservation from the east side of the Columbia River to the west side of the Columbia had a deleterious effect on tribal

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[28] Charles Ewing to Columbus Delano, Secretary of the Interior, June 5, 1873, E-25, Roll 912, M234, frames 926–932, USA-CDA00021467.

[29] Jno. B. Monteith, Indian Agent, Nez Perce Agency, to Edw. P. Smith, Commissioner of Indian Affairs, August 6, 1873, M-407, Roll 341, M234, frames 547–552, USA-CDA00021501; Agreement Made and Entered Into on This 28th Day of July, A.D., 1873 at Latah (or Hangman's) Creek [Coeur d'Alene Agreement], M-407, Roll 341, M234, frames 553–562, USA-CDA00021487. For a map showing the location of the Tribe's traditional villages, see Gary Palmer, "Coeur d'Alene," in *Handbook of North American Indians*, vol. 12, vol. ed. Deward E. Walker, Jr. (Washington, DC: Smithsonian Institution, 1998), 314, USA-CDA00021626.

[30] "Governor Bennett's Letter," September 18, 1873, in *Idaho Signal*, October 4, 1873, USA-CDA00006617. Emphasis in original.

[31] Coeur d'Alene Agreement, July 28, 1873, M-407, Roll 341, M234, frames 553–562, USA-CDA00021487.

people by moving them away from "the advantages of the salmon fisheries on the Spokane and Columbia" and "literally robbing the Indians of their country and their food."[32]

The proposed bill to re-establish the Colville Reservation east of the Columbia River—inclusive of a five-mile-wide strip of the 1873 Coeur d'Alene Reservation—also contained clear protections for both tribal fisheries and the streams entering Indian lands. Article 1 of this bill contained a noteworthy provision stipulating that "the Indians herein named"—which included the Coeur d'Alene Indians, despite their absence from the mid-August 1873 negotiations with the Colville and other tribes—would not "be deprived of the right to take fish from said rivers within the limits of the reservation herein provided for them." Additionally, the proposed legislation prohibited placing any "artificial obstructions" in either "the Columbia or Spokane Rivers which shall interfere with or impede the free range of fish in said streams."[33]

However, neither the bill to create a newly established Colville Reservation east of the Columbia River nor the July 1873 Coeur d'Alene agreement received congressional approval. Despite this, the expanded boundaries of the Coeur d'Alene Reservation outlined in the July 28, 1873, agreement with tribal leaders were officially "set apart as a reservation for the Coeur d'Alene Indians" by President Grant on November 8, 1873.[34]

Although the new boundaries expanded the Coeur d'Alene Reservation from 250,000 acres to nearly 590,000 acres, this still included "less than a quarter of the tribe's aboriginal territory," according to anthropologist Gary Palmer.[35] Still, as noted above, the 1873 borders encompassed many of the Tribe's principal fisheries and traditional village sites along Lake Coeur d'Alene and the Coeur d'Alene, St. Joseph, and Spokane Rivers. Thus, while Commissioner of Indian Affairs E. P. Smith claimed that the newly enlarged reservation was "suitable to their wants as an agricultural people," the expanded boundaries also unequivocally reflected tribal members' desire to incorporate within the reservation many of the fisheries, waterways, and hunting and gathering grounds upon which they had relied for centuries. As such, the purposes for which the federal government established the reservation in 1873 were not limited to agriculture, but instead reflected the Coeur

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[32] John P. C. Shanks, Special Commissioner, to Hon. T. W. Bennett and H. W. Reed, August 14, 1873, in House, *Proposed Indian Reservations in Idaho and Washington Territories*, 43d Congress, 1st session, January 23, 1874, H. Ex. Doc. 102, serial 1607, 5, USA-CDA00003773.

[33] A Bill to Create a Reservation in the Territory of Washington for the Coeur d'Alene and Other Indian Tribes Therein Named, in House, *Proposed Indian Reservations in Idaho and Washington Territories*, 43d Congress, 1st session, January 23, 1874, H. Ex. Doc. 102, serial 1607, 1–2, USA-CDA00003773.

[34] Executive Order, November 8, 1873, in Kappler, *Indian Affairs: Laws and Treaties*, vol. 1, 837, USA-CDA00001713.

[35] Gary B. Palmer, "Indian Pioneers: The Settlement of Ni'lukhwalqw (Upper Hangman Creek, Idaho) by the Schitsu'umsh (Coeur d'Alene Indians)," *Oregon Historical Quarterly* 102, no. 1 (Spring 2001): 27–28, USA-CDA00021693. See also Laura Woodworth-Ney, *Mapping Identity: The Creation of the Coeur d'Alene Indian Reservation, 1805–1902* (Boulder: University Press of Colorado, 2004), 96, USA-CDA00021719.

d'Alene Indians' ongoing reliance on their centuries-old traditional subsistence activities, including fishing, hunting, berry picking, and root gathering.[36]

2.2.2 *Coeur d'Alene Tribal Members Did Not Abandon Traditional Subsistence Practices Either Before or After 1873*

Wee's arguments regarding the purportedly agricultural purpose for which the Coeur d'Alene Reservation was created stem, in part, from his analysis of tribal members' shift from traditional subsistence practices to farming. His conclusions on this point, however, overstate the extent to which tribal members abandoned activities such as fishing, hunting, and gathering in favor of agriculture, as well as suggesting that this shift occurred more rapidly than primary source documents show. Likewise, Wee's discussion about the impact of the Coeur d'Alene Indians' acquisition of horses and adoption of bison hunting reflects a similar tendency to interpret changes in tribal lifeways as occurring with greater rapidity and finality than is supported by either the historical or the anthropological record.

Bison Hunting Did Not Cause Tribal Members to Halt Their Traditional Subsistence Activities

With regard to the impact of bison hunting, Wee argues in his introduction that, "Camas and water potato-gathering and fishing persisted as elements of Coeur d'Alene subsistence, but how much of a part of the tribe's hunting and gathering activities these remained in the context of tribal bison hunting has been questioned by ethnographers." Likewise, the conclusion of the Wee Report suggests that bison hunting largely supplanted other traditional subsistence-based practices during the eighteenth and nineteenth centuries. According to Wee, although "[f]ishing and camas root gathering along with small-game hunting certainly persisted," he claims that "ethnographers question just how much relative effort the Coeur d'Alene invested in these traditional subsistence activities given their bison hunting."[37] However, his conclusions about the impact of bison hunting on Coeur d'Alene subsistence are not supported by either primary source documents or by anthropological studies of the Tribe.

Wee relies mainly on statements by ethnographers James Teit and Rodney Frey to make the above assertions about bison, but neither Teit's nor Frey's work supports Wee's analysis. As Wee states in his report, Teit found that the Coeur d'Alenes "were well supplied with horses" by 1800 and often "joined forces with the Flathead and western tribes" during the nineteenth century to hunt buffalo on the plains east of the Rocky Mountains, where they also engaged in conflicts with the Blackfeet. Importantly, though, Teit indicated that Coeur d'Alene hunting parties typically "left in

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[36] Palmer, "Coeur d'Alene," in *Handbook of North American Indians*, 313–316, USA-CDA00021626; Edw. P. Smith, Commissioner of Indian Affairs, to the Secretary of the Interior, November 1, 1873, in ARCIA 1873, 24, USA-CDA00021519.

[37] Wee Report, 2, 166–167.

August, after the harvesting of the principal root and berry crops, and after the salmon had been put up." Teit thus showed that bison hunting occurred within the Tribe's broader array of subsistence activities, and his work does not support Wee's conclusion that buffalo hunting supplanted the Tribe's traditional subsistence practices.[38]

Frey, meanwhile, noted that some Coeur d'Alene families could be "[g]one for up to nine months of the year," hunting "buffalo in the valleys east of the Bitterroots and farther onto the Plains east of the Rocky Mountains." However, he additionally argued that the greater mobility gained by tribal members through their acquisition of horses also served to increase Coeur d'Alene access to "important Columbia River salmon fishing and trading sites, such as Kettle Falls." He also clearly stated that "[b]erries continued to be gathered, deer hunted, and fish caught" throughout the 1800s. Frey likewise argued that the Coeur d'Alene Indians did not abandon their traditional winter village sites after acquiring horses, but instead incorporated the use of these sites into what he called a "changing transhumance pattern." He wrote that

> while many families traveled to the winter villages along the lake's shore, some began their trek over the mountains into buffalo country. The following year, some of those who had wintered along the lake's shore were among those buffalo hunting in the valleys east of the Bitterroots; those who had hunted buffalo the year before now hunted deer in the Coeur d'Alene Mountains.[39]

Other anthropologists agreed that, while the acquisition of horses and bison hunting may have impacted Coeur d'Alene culture, it did not result in the abandonment of traditional village sites or subsistence practices such as fishing, hunting, berry picking, and root digging. For example, Stuart Chalfant's 1974 study of the Coeur d'Alene found that although the "value of fishing" reportedly "lessened" in response to horse culture and bison hunting, fishing still "persisted in its old form at old locations." Similarly, Chalfant found that, "Camas digging and berry gathering continued in its old form." Meanwhile, he argued that "small game hunting," not bison, formed "the basis for their meat supply," claiming that bison hunting was "considered more of a sport or past-time than a serious means of provision." Chalfant thus concluded that, even after the Coeur d'Alenes acquired horses and began hunting buffalo, "Much of the traditional subsistence pattern, the yearly rounds, the hunting areas and fishing sites, the camas grounds, remained unchanged."[40]

Anthropologist Gary Palmer likewise maintained that tribal members continued to frequent their traditional fishing sites and "the summer camas grounds" as a part of their seasonal movements after they acquired horses and began engaging in buffalo hunting. In fact, Palmer argued that, "The gatherings for fishing and root digging may have expanded after the horse increased the ease of communications and transport." Traditional, water-based village sites continued to be used, as well,

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[38] James A. Teit, "The Coeur d'Alene," in *Forty-Fifth Annual Report of the Bureau of American Ethnology, 1927–1928*, ed. Franz Boaz (Washington, DC: Government Printing Office, 1930), 97, 151, USA-CDA00003451.

[39] Rodney Frey, *Landscape Traveled by Coyote and Crane: The World of the Schitsu'umish* (Seattle: University of Washington Press, 2001), 51, USA-CDA00021676.

[40] Stuart A. Chalfant, "Historical Material Relative to Coeur D'Alene Indian Aboriginal Distribution," in *Interior Salish and Eastern Washington Indians I* (New York: Garland Publishing, Inc., 1974), 145–146, USA-CDA00001045.

serving as "midpoints" during seasonal migrations where tribal members "rested, pastured weary horses, put up food, and prepared for the next foray." The location of these village sites along the major watercourses within Coeur d'Alene territory—including Lake Coeur d'Alene and the Coeur d'Alene, Spokane, and St. Joseph Rivers—also reflected the longstanding and continued importance of fishing and other traditional subsistence activities, which typically occurred along these waterways. (See Figure 5)

Primary source documents from the historic period also clearly revealed the ongoing importance of subsistence activities such as fishing, hunting, and gathering during the era when the Coeur d'Alene Indians participated in bison hunts. The earliest examples include the reports of explorers and fur traders such as David Thompson and Ross Cox, neither of whom indicated that buffalo meat replaced fishing, local game hunting, berry picking, and root gathering as the Tribe's primary subsistence. Thompson, for example, wrote in 1809 about a meeting with the Coeur d'Alene (whom he called the "Skeetshoo"), Salish, and Kootenai Indians at Lake Pend Oreille, where tribal members offered him "an acceptable present of dried Salmon and other Fish, with Berries, and the meat of an Antelope."[41]

Cox, meanwhile, focused on the presence of "beaver, deer, wild-fowl, & c.," and the Tribe's proximity to "the shores of a lake" in his discussion of Coeur d'Alene subsistence. He further reported that the "vegetable productions" of the Tribe's territory were "similar to those of Spokan," which he described as producing an "abundance of nutritive roots and wild fruit," as well as including streams that supplied the Indians with "excellent salmon, trout, and carp." Recalling the "summer of 1815," which he spent "at Spokan," as "the most pleasant and agreeable season I enjoyed in the Indian country," Cox reported that his days were spent "[h]unting, fishing, fowling, horse-racing, and fruit-gathering," including "some good horse-racing in the plains between the Pointed-Heart and Spokan lands."[42]

The accounts of Jesuit missionaries such as Nicholas Point, Joseph Joset, and Pierre-Jean De Smet—many of which Wee cites in his report—are also invaluable primary sources from the mid-1800s that unequivocally show that the Coeur d'Alenes' traditional subsistence activities had not been supplanted by bison hunting. Point, for example, accompanied tribal members on "their great fishing expeditions" in 1842–1843, which he claimed took place "in fall." However, Point also noted that, "Fishing, like hunting, is done almost the year round." Describing one such "great fishing expedition" that he observed in November 1842 "on the straight banks of the Spokane River, at the place where Lake Coeur d'Alene teems with a prodigious number of fish," Point wrote:

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[41] J. B. Tyrell, ed., *David Thompson's Narrative of His Explorations in Western America, 1784–1812*, reprint of 1916 edition (New York: Greenwood Press, 1968), 410, USA-CDA00021906.

[42] Ross Cox, *Adventures on the Columbia River, Including the Narrative of a Residence of Six Years on the Western Side of the Rocky Mountains, Among Various Tribes of Indians Hitherto Unknown: Together with a Journey Across the American Continent*, vol. 2 (London: Henry Colburn and Richard Bentley, 1831), 43, 47–48, 147, 150–151, USA-CDA00021762.

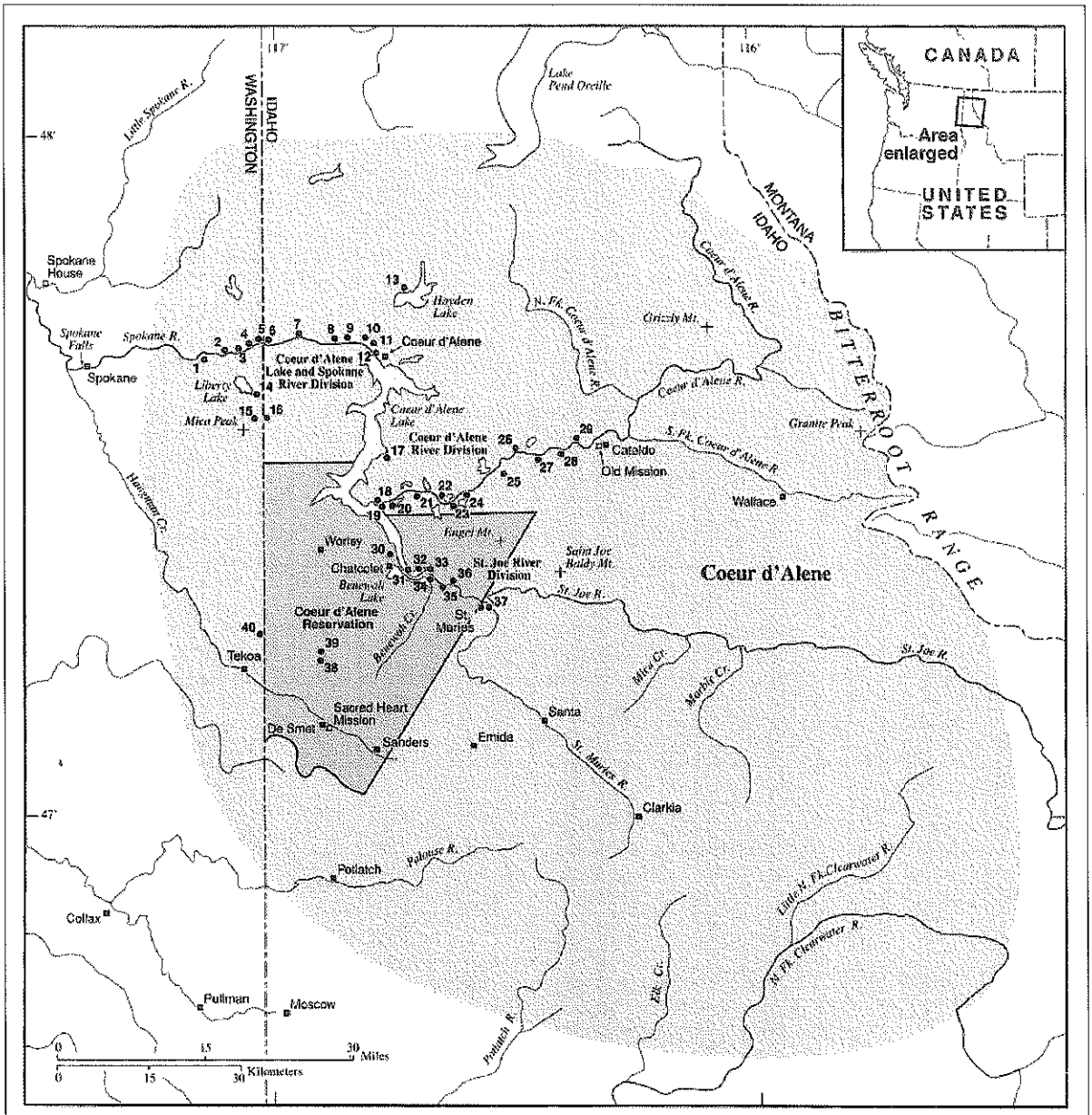

Fig. 1. Coeur d'Alene territory and drainage during the 19th century, with modern towns and reservation.

Spokane River–Coeur d'Alene Lake Division: 1, *čatəmwáyi?tpəm* 'flat by dogwoods'; 2, neslíxum; 3, nesx^{w}âx^{w}e; 4, ntsetsak^{w}olsák^{w}o (?); 5, ne?awáshalqs; 6, *hənčaǰlípenč* 'fir on the mountainside'; 7, *ǰemílən* 'throat, gorge'; 8, *sčétk^{w}e?* 'flat water'; 9, *hənšáwpt* 'upstream'; 10, *tpu?nítpəm* 'bubbling plant'; 11, smələlína; 12, *hənčəmqink^{w}e?* 'surface at the head of the water' (Coeur d'Alene, Idaho); 13, *hənťáqən* 'Hayden Lake, Idaho'; 14, *múlš* 'cottonwood'; 15, *čnák^{w}a?qən* 'one on the head'; 16, family camp, name unknown; 17, chelélchəlíchəman.

Coeur d'Alene River Division: 18, chlíchalx^{w}; 19, *alk^{w}árí?ɬ* 'source of gold'; 20, ne?atsxáxstəm; 21, dé?ɬəlp^{w} 'a large clump of cottonwoods' (?); 22, nest'áq^{w}ast; 23, qoqolételps 'black pines'; 24, *smáq^{w}qən* 'things lying on the mount'; 25, camp, name unknown; 26, *hənsélut* 'whirlpool'; 27, sənshéləments; 28, nalstqílx^{w}ən; 29. *sq^{w}lú* (Old Sacred Heart Mission).

Saint Joe River Division: 30, *čəmíwəs* 'waist, narrow peninsula between lake and river'; 31, stíq^{w}takəshən (?); 32, chetishtashashən; 33, *stúčtewəs* (Mission Point); 34, schishátət; 35, schlélidshiketən; 36, *čat?nwáščaǰqs* 'little dwelling on the spur'; 37, *hənčémcən* 'confluence, inner mouth' (St. Maries, Idaho); 38, táx?olks (?), Summer camps not associated with divisions; 39, *ni?lox^{w}álq^{w}* 'hole in the woods'; 40, nlpótsantsən.

Sources: Palmer, Nicodemus, and Felsman (1987); Ray (1936:130–133); Teit (1930:38–39). Names given only by Ray or Teit, or both, are in a slightly normalized transcription in roman.

Figure 5. Coeur d'Alene Aboriginal Territory and Traditional Village Sites.
Source: Palmer, "Coeur d'Alene," in *Handbook of North American Indians*, vol. 12, 313, USA-CDA00021626.

> The catch is usually so abundant that canoes are filled and emptied within a space of a few hours. It is in large measure due to the ease with which the Coeur d'Alenes procure the necessities of life that this tribe is noted for its laziness, to say nothing of other vices.[43]

Point also wrote that the waters were "teeming with fish" at Chief Stellam's village on the headwaters of the Spokane River where Lake Coeur d'Alene "empties into" that stream. Here, tribal members used "a trellised barrier extending from shore to shore" to catch the "teeming" numbers of fish in the river's headwaters. Once again calling the Indians "lazy" because of the "ease with which food can be produced" in their territory, Point often noted the prevalence of fish, "water fowl," game, "camass," and other subsistence items available near Coeur d'Alene villages and in the nearby mountains. Indeed, Point claimed that the Tribe's territory "abounds" in both fish and "game animals," remarking with admiration on the "circling tactic" that tribal members used to kill a reported "six hundred deer" on one hunt.[44]

In 1845, Father Joseph Joset was similarly impressed by the Indians' ability to take "as many as three hundred roebucks in one day," describing a water-based hunting technique by which tribal members forced game "to throw itself into the lakes," then overtook the animals "in the canoe." Notably, Joset contrasted the Coeur d'Alenes with the "Flat-Heads," who lived "nearer to the regions in which is found the buffalo," stating that the Salish relied on bison to a greater extent than the "Awl-Hearts." In fact, according to Joset's 1845 account, the Coeur d'Alene Tribe based its subsistence entirely on "the little chase, that is, the hunting of the roebuck, fishing, roots and moss," and did not "go to seek their food beyond the narrow circle of their valleys."[45]

Father De Smet, writing in 1859, likewise asserted that Lake Coeur d'Alene was the "central point" of Coeur d'Alene territory, noting that the "rivers and rivulets" that fed into and debouched from the lake "abound wonderfully in mountain trout and other fish." The innumerable forests in "the Coeur d'Alene country" were also "well stocked with deer, with black and brown bears, and with a variety of fur-bearing animals," while the region's valleys and prairies contained "[c]amash, and other nutritious roots and berries" on which tribal members also depended for their subsistence. The conspicuous absence of bison from these missionaries' mid-nineteenth-century accounts of Coeur d'Alene subsistence is important, in light of Wee's unsupported assertions about the impact of bison hunting on the Tribe's fishing, hunting, and gathering practices.[46]

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[43] Nicholas Point, *Wilderness Kingdom: Indian Life in the Rocky Mountains, 1840–1847. The Journals and Paintings of Nicholas Point, S. J.*, ed. and trans. Joseph P. Donnelly (New York: Holt, Rinehart and Winston, 1967), 174–175, USA-CDA00002715.

[44] Point, *Wilderness Kingdom*, 50, 62, 174–175, 178, 180, USA-CDA00002715.

[45] Joseph Joset to Father Fouillot, in Pierre-Jean De Smet, "Missions of the Rocky Mountains," in vol. 7 of *Annals of the Propagation of the Faith* (1846), 372–373, USA-CDA00001318.

[46] Pierre-Jean De Smet, *New Indian Sketches,* ed. Edward J. Kowrach (Fairfield, WA: Ye Galleon Press, 1985), 130, USA-CDA00001327. For another copy of this letter, see P. J. De Smet, S.J., Chaplain, & c., United States Army, to Captain A. Pleasonton, Acting Assistant Adjutant General, May 28, 1859, in House, *Affairs in Oregon*, 36th Congress, 1st session, April 12, 1860, H. Ex. Doc. 65, Serial 1051, 147–149, USA-CDA00021277.

It is additionally worthy of note that, during the Jesuits' initial years in Coeur d'Alene territory, the missionaries themselves mostly "relied on traditional subsistence patterns for their own survival" and thus "did not force immediate changes" in the Tribe's seasonal cycles nor in its village locations. As historian Laura Woodworth-Ney has indicated, Point "possessed so few provisions" that he "subsisted in much the same manner as the Coeur d'Alenes," while Father Joset "used Coeur d'Alene methods to provide for his subsistence." Woodworth-Ney thus concluded that, "During the early years of the mission the priests encouraged fishing and hunting and allowed for the observance of traditional hunting rituals."[47]

In fact, Father Alexander Diomedi claimed that the placement of the Cataldo Mission along the Coeur d'Alene River reflected an intentional decision by the Jesuits to allow tribal members to continue engaging in their traditional subsistence practices. Discussing the establishment of the mission, Diomedi stated that its location was selected, in part, so tribal members could "find in the neighborhood a supply of game and fish, so that they should not give as a pretext for roving about, the need of providing themselves with the means of living." Upon his arrival at the mission in 1876, Diomedi reported that the Coeur d'Alene River—which "surrounded" the foot of the mission "by a graceful bend from east to west"—was "copiously supplied with mountain trout." He also noted that tribal members who engaged in farming at the Cataldo Mission continued "going hunting," although they reportedly "would seldom absent themselves for more than a few weeks at a time."[48]

It is thus not surprising that the federal officials who encountered the Coeur d'Alenes in the 1850s and 1860s commented not only on their agricultural progress, but also on the Tribe's continued reliance on their centuries-old subsistence activities. For example, while Washington Territorial Governor Isaac Stevens was "much struck" by the Coeur d'Alenes' "large fields" and "civilized condition" after his first meeting with them in 1853,[49] he also indicated that even those tribal members who had begun to farm still "procure their subsistence in the summer by hunting and fishing." Moreover, Stevens reported on autumn 1853 encounters with Coeur d'Alene Indians who were "occupied with their trout fisheries" on the upper Spokane River, as well as marveling at their "ingenious method of hunting deer," which had enabled them to kill "more than 400" deer "in one hunt."[50]

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[47] Woodworth-Ney, *Mapping Identity*, 34, USA-CDA00021719. See also Edward J. Kowrach and Thomas E. Connolly, eds., *Saga of the Coeur D'Alene Indians: An Account of Chief Joseph Seltice* (Fairfield, WA: Ye Galleon Press, 1990), *Saga of the Coeur D'Alene Indians*, 37, USA-CDA00001740.

[48] Alexander Diomedi, S.J., *Sketches of Indian Life in the Pacific Northwest*, Edward J. Kowrach, ed. (Fairfield, WA: Ye Galleon Press, 1978, originally published 1894), 61–62, USA-CDA00001366.

[49] Isaac I. Stevens, Gov. and Supt., Washington Territory, to the Commissioner of Indian Affairs, December 6, 1853, W-303, Roll 907, M234, frames 87–94, USA-CDA00021134.

[50] Isaac I. Stevens, *Narrative and Final Report of Explorations for a Route for a Pacific Railroad Near the Forty-Seventh and Forty-Ninth Parallels of North Latitude, from St. Paul to Puget Sound*, in House, *Reports of Explorations and Surveys, to Ascertain the Most Practicable and Economical Route for a Railroad from the Mississippi River to the Pacific Ocean*, Vol. 12, Book 1, 36th Congress, 1st session, 1860, H. Ex. Doc. 56, serial 1054, 132–134 [hereinafter cited as Stevens, *Narrative and Final Report of Explorations*], USA-CDA00003387.

During his eastbound treaty-making trek from Walla Walla in mid-June 1855, Stevens also reported meeting 250 Coeur d'Alene tribal members at their "Root Grounds" near Hangman (Latah) Creek. Stevens's secretary, James Doty, likewise reported that "twenty-nine lodges of Coeur d'Alene Indians" were "digging Camash" along Hangman Creek, in an area "known as the Camash Prairie of the Coeur d'Alenes." As Stevens's 1853 reports had also shown, the significant number of tribal members digging camas during the summer of 1855 further underscored the continuing importance of the Tribe's traditional subsistence activities.[51] It is also notable that the Coeur d'Alenes allowed Stevens's entourage to use tribal canoes to aid travel at lake and river crossings.[52]

The reports of observers and participants in the 1858 Northern Plateau War provided additional insight into the Coeur d'Alenes' ongoing reliance on traditional subsistence activities during the bison hunting era. For example, as Joset's 1870s remembrance of the 1858 war showed, U.S. troops first encountered the Coeur d'Alenes at their camas grounds, where "almost all" of the Tribe was "off in the plains after roots."[53] Father Congiato similarly noted the "scattered" location of Coeur d'Alene bands in an August 1858 letter to military officials. After arriving at the Cataldo Mission in mid-July 1858, Congiato reported that it took him "over three weeks" before he was able to "see the Coeur d'Alenes and Spokane Indians" because tribal members "were scattered about in small parties, at great distances from each other, some fishing, others digging roots or gathering fruits, and making provision for winter."[54]

Captain John Mullan, meanwhile, reported in 1863 that the Coeur d'Alenes subsisted through a combination of "hunting, fishing, and cultivating the soil." Mullan used Andrew Seltice—who had "several acres under cultivation" in the Spokane River valley—as an example. According to Mullan, Seltice combined "hunting, fishing, and tilling the soil" to live "the life of an independent chief." Mullan's report to Congress additionally remarked on the profusion of fish, berries, and game animals throughout Coeur d'Alene country. Lake Coeur d'Alene, for example, was "filled with an abundance of delicious salmon trout," while the Spokane River—the lake's outlet—provided "an abundant supply" of salmon. Meanwhile, according to Mullan's survey crew, the Coeur d'Alenes considered one stretch of the St. Joe River valley to be "the richest berry region in the mountains,"

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[51] Isaac I. Stevens to George Manypenny, July 17, 1855, W-586, Roll 907, M234, frames 433–435, USA-CDA00021147; James Doty, *Journal of Operations of Governor Isaac Ingalls Stevens of Washington Territory in 1855*, Edward J. Kowrach ed. (Fairfield, WA: Ye Galleon Press, 1978), 36, USA-CDA00021163.

[52] Stevens, *Narrative and Final Report of Explorations*, 200–201, USA-CDA00003387. The Coeur d'Alene Indians also assisted military officials in crossing the Coeur d'Alene and St. Joe Rivers at the conclusion of the 1858 Northern Plateau War by offering them "Indian canoes." See Wright to Mackall, September 21, 1858, in *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 398, USA-CDA00003865.

[53] Robert Ignatius Burns, "Pere Joset's Account of the Indian War of 1858," *Pacific Northwest Quarterly* 38 (October 1947): 292, 294, USA-CDA00001013.

[54] Father Congiato to General Clarke, August 3, 1858, in Senate, *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 372, USA-CDA00003865.

noting that tribal members "visit it regularly towards the end of July and the commencement of August." The report also noted tribal use of fire as a tool to assist with deer hunting.[55]

Joseph Seltice's account of the 1850s and 1860s—which is based on notes from oral narrations given by his father, Chief Andrew Seltice, prior to his death in 1902—further revealed the ongoing importance of traditional subsistence activities among the Coeur d'Alenes. Seltice recounted that "all the families" continued their seasonal rounds of huckleberry picking, camas digging, hunting, and fishing, with some tribal members incorporating Catholic religious observances into their migrations. Recalling that the Indians "always had a good supply of meat and fish, and they had little to worry about during those winter days of 1856 and 1857," Seltice indicated that the river basins throughout Coeur d'Alene territory were "well stocked with elk, deer and fish," stating, "The elk licks on the Clearwater Range could easily supply the entire Tribe with winter meat. On the Little North Fork of the Clearwater, the salmon could be hooked out of the river nearly as fast as you could throw them on the bank."[56]

Wee's lack of emphasis on this type of information, which is located throughout the historical and anthropological record, leads him to overstate the extent to which bison hunting reportedly caused tribal members to lessen their reliance on fishing, hunting, and gathering during the 1800s. On the contrary, primary source documents clearly show that the Coeur d'Alene Indians continued to depend on these traditional subsistence activities throughout the period leading up to the 1873 establishment of their reservation, as well as in the decades following its creation.[57]

Tribal Agricultural Production Was Minimal Prior to 1873, and Tribal Members Did Not Abandon Traditional Subsistence Practices Before or After 1873

As with his inaccurate analysis of bison hunting, Wee also overemphasizes tribal members' reliance on agriculture prior to the 1873 creation of the Coeur d'Alene Reservation, suggesting that this shift toward farming occurred with greater rapidity than the historical record shows and led the Coeur d'Alene Tribe to quickly abandon centuries-old subsistence practices like fishing, hunting, berry picking, and root gathering.

In the introduction to the Wee Report, he states that "Jesuit missionary efforts, beginning in the early 1840s, re-oriented the Coeur d'Alene back to the resources of their aboriginal territory, but in a new way," claiming that tribal members "increasingly took up lands within the aboriginal territory that could be sown to wheat and oats and upon which stock animals could be grazed." According to Wee, the result was that "aboriginal subsistence practices began to give way to organized agricultural production," asserting that Coeur d'Alene tribal members "were committing themselves to Euro-

[55] Captain John Mullan, *Report on the Construction of a Military Road from Fort Walla-Walla to Fort Benton*, in Senate, 37th Congress, 3d session, February 19, 1863, S. Ex. Doc. 43, Serial 1149, 17, 30, 49, 106, USA-CDA00021293.

[56] Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 9–10, 60, 82–83, 151–155, 189–191, 202–203, USA-CDA00001740.

[57] Wee Report, 2.

American farming and livestock raising by the early 1870s." He further argued that "the transition of the tribe into sedentary farmers was well underway prior to the 1873 executive order" and that "since the 1870s," the Tribe "had sought to secure the most agriculturally advantageous land within their aboriginal territory for themselves."[58]

However, as noted above, the Coeur d'Alenes' November 1872 petition called for the expansion of their 1867 reservation by including lands located along traditionally occupied waterways that were not well-suited to agriculture. As previously discussed, tribal leaders believed "no white man could ever settle there," stating that the valleys along the Coeur d'Alene and St. Joseph Rivers were "under water" each spring and that "the far greatest part of it is either rocky, or too dry, too cold, or swampy" for farming. The reason the Tribe sought to include these lands within the reservation was not to support tribal agricultural efforts, but rather because the lands were "from old the habitual residence of most of us" and because these areas along Coeur d'Alene waterways supported their "old habits" of "hunting and fishing" upon which tribal members continued to rely.[59]

Other documents from this period also stressed the non-agricultural nature of the lands desired by the Tribe prior to the 1873 executive order, in addition to further revealing the continuing importance of traditional subsistence practices and tribal waterways. GLO Deputy Surveyor David Thompson, for example, predicted "trouble with these Indians" if their principal fisheries were "excluded" from their reservation. He also claimed that the additional lands desired by the Tribe were "almost worthless as an agricultural country," but they held significant value for tribal members because they included "the fisheries on the lake and on the St. Josephs River."[60] Captain George Sanford agreed that the valleys along the Coeur d'Alene and St. Joseph Rivers were "unsuitable" as a "farming country," claiming they were "too wet" and too "small."[61]

The Wee Report, however, minimizes the importance placed by the Tribe on securing additional reservation lands that included their fisheries and traditional village sites. In fact, Wee credits "the Jesuits" with initiating "an appeal campaign" in 1872 "to protect the tribe's aboriginal lands surrounding Lake Coeur d'Alene," rather than tribal members themselves. He also mischaracterizes the pre-1873 period as one of significant agricultural production by the Coeur d'Alene, while downplaying historical documents that reveal the ongoing importance of fishing, hunting, and gathering activities. At a broader level, the largely post-1873 content of Wee's report leads him to analyze pre-1873 events through the lens of the Tribe's increasing agricultural activity at the turn of the twentieth century. In so doing, Wee claims that the primary reason for the Coeur d'Alene

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[58] Wee Report, 2, 59, 99–100.

[59] Petition of the "Chiefs and People of the Coeurs D'Alene," November 18, 1872, C-417, Roll 912, M234, frames 868–872, USA-CDA00021418.

[60] Thompson to Cartee, May 6, 1873, L-111, Roll 341, M234, frames 290–294, USA-CDA00021443. For the boundaries of the 1867 reservation, see Executive Order, June 14, 1867, in Kappler, *Indian Affairs: Laws and Treaties*, vol. 1, 836–837, USA-CDA00001713.

[61] George B. Sanford, Captain, 1st Cavalry, to Assistant Adjutant General, Department of the Columbia, June 1, 1872, W-347, Roll 912, M234, frames 690–692, USA-CDA00021374.

Reservation's creation was narrowly agricultural, rather than reflecting the broad homeland purposes that the historical record shows.[62]

Although extant historical documents indicate that some Coeur d'Alene tribal members were engaging in agriculture prior to the 1873 establishment of their reservation, their farms were small and their agricultural production was not sufficient to supply the Tribe's needs. Because of this, those tribal members who participated in this small-scale farming did so by incorporating such activities into their existing subsistence practices. Stevens's 1853 report clearly reflected this, as he stated that the farms adjoining the Cataldo Mission encompassed "[a]bout a hundred acres" and were being worked by only "thirty or forty Indians—men, women, and children." As noted above, Stevens reported that those who were engaged in agricultural work continued to "procure their subsistence in the summer by hunting and fishing," while their farm labor earned them "tickets" they could use to purchase potatoes or wheat from the missionaries when needed to supplement their food supply.[63]

Father Joset also indicated that the influence of the Cataldo Mission on the Coeur d'Alenes remained limited through the 1850s. In an 1858 letter to his superiors, Joset stated, "Even among the Coeur d'Alenes there is a certain number that we never see, that I do not know in any manner. The majority mistrust me when I come to speak in favor of the Americans." Joset further noted that Coeur d'Alene Chief Vincent's camp was located "about ninety miles" away from the Cataldo Mission, providing additional evidence of the Tribe's continued occupation of traditional village sites that were far removed from the Jesuit presence in their territory.[64]

In 1863, Mullan likewise reported that while some Coeur d'Alene Indians "live at the mission," others continued to reside at their village sites "along the Coeur d'Alene and St. Joseph's Rivers." Like Stevens before him, Mullan was impressed by the Coeur d'Alenes' agricultural efforts, stating that the mission boasted "a body of five or six square miles of most beautiful soil," where they had placed "several hundred acres" under cultivation and were raising "[o]ats, barley, wheat, peas, and potatoes." He also noted "small bodies" of farming land along the upper Spokane River, where tribal members had "small farms enclosed." Despite his laudatory depiction of tribal agriculture, Mullan's report also revealed the Tribe's continuing reliance on traditional subsistence activities, including future Chief Andrew Seltice, who had "several acres under cultivation, and with hunting, fishing, and tilling the soil, leads the life of an independent chief." Mullan's general description of the Tribe similarly showed the ongoing importance of traditional subsistence activities:

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[62] Wee Report, 1–4, 32–44, 166–169.

[63] Stevens, *Narrative and Final Report of Explorations*, 133, USA-CDA00003387

[64] Father Joset to Father Congiato, June 27, 1858, in Senate, *Report of the Secretary of War*, 35th Congress, 2d session, 1859, S. Ex. Doc. 1, pt. 2, Serial 975, 354, 356, USA-CDA00003865.

> The Coeur d'Alenes number about three hundred, live at the mission, and along the Coeur d'Alene and St. Joseph's rivers. They own houses, cattle, and canoes, and with the Spokanes and Nez Perces often cross the mountains in quest of buffalo. They live by hunting, fishing, and cultivating the soil.[65]

The continued importance of fishing, hunting, root digging, and berry gathering throughout the period leading up to the 1873 executive order is also reflected in Joseph Seltice's account of his father's remembrances. For example, recounting the Tribe's fall hunting and fishing activities in the 1860s, Seltice stated that Coeur d'Alene families journeyed to accustomed locations in the Coeur d'Alene, Bitterroot, and Clearwater Mountains, as well as to Old Grizzly Mountain and the "headwaters of the Coeur d'Alene River." According to Seltice, all of these families returned to their villages at the end of their seasonal migrations "loaded" with "a full supply of dried and smoked meat and fish," including "elk, deer, bear, beaver, salmon and mountain trout," which would "last till the following summer."[66]

The Seltice account likewise corroborated tribal members' continuing use and occupation of traditional village sites located throughout the Tribe's aboriginal territory, as is also shown in numerous primary documents from the mid-nineteenth century. According to the Seltice narrative, these sites included centuries-old, water-based villages at Hayden, Liberty, Seltice, Chatcolet, and Benewah Lakes, as well as along Lake Coeur d'Alene and the Spokane, St. Joseph, and Coeur d'Alene Rivers.[67]

Joseph Seltice's description of his father's recollections from the pre-1873 period also showed the minimal extent of Coeur d'Alene agriculture prior to the reservation's creation. As the historical record confirms, Seltice stated that those tribal members who engaged in agriculture in the 1860s "had small fields, of no more than an acre or two," and that tribal farms "consisted of only a few acres," even after some individuals obtained oxen. Since these small farms were insufficient to sustain an entire family, Seltice noted that even those tribal members who "were eagerly pursuing a life of ranching and farming" continued to go "on the hunt in the fall, when they had finished their work." Meanwhile, according to Seltice, other Coeur d'Alene families were never "persuaded to turn to the arts of farming" and instead continued "the life of only hunting and fishing" and "killing game throughout the whole year."[68]

Primary sources from the period leading up to the 1873 executive order likewise indicated that Coeur d'Alene agriculture remained extremely limited. For example, despite claiming that tribal members were "really making some progress in tilling the soil," Assistant Inspector General E. H. Ludington reported in August 1872 that the Coeur d'Alene tribal members he visited had only 20 acres under cultivation. Ludington additionally stated that the Coeur d'Alene and Spokane Indians

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[65] Mullan, *Report on the Construction of a Military Road*, 30, 42, 49, USA-CDA00021293.

[66] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 189–191, 202–203, USA-CDA00001740.

[67] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 171–174, 178–179, USA-CDA00001740. For a description of Coeur d'Alene village sites in the late 1850s, see pages 83–84.

[68] Kowrach and Connolly, eds., *Saga of the Coeur D'Alene Indians*, 158–161, 179, USA-CDA00001740.

told him they would rather "be killed where they are than to starve" on the Colville Reservation west of the Columbia River, where some officials had proposed relocating them.[69] Moreover, while acknowledging tribal opposition to removal from their aboriginal lands, Colville Agent John Simms also stressed the importance of including fisheries within Indian reservation boundaries.[70]

The annual reports of the commissioner of Indian affairs from 1870–1873 similarly revealed the minimal amount of farming undertaken by the Coeur d'Alene Indians prior to 1873, as well as reflecting their continued reliance on traditional subsistence activities. In his 1870 report, Idaho Superintendent of Indian Affairs De L. Floyd Jones noted that the Jesuits at the Cataldo Mission were "instructing them [the Coeur d'Alenes] in agriculture," while also stating that "[n]o attempt has been made to collect them on reservations."[71] The following year, the "farmer in charge" of the Colville Agency reported that Coeur d'Alene tribal members "farm on a small scale, but subsist principally by hunting and fishing."[72]

In October 1872, Washington Superintendent of Indian Affairs R. H. Milroy claimed that the Coeur d'Alene Tribe had "a great number of horses and cattle" and had "plowed up a great deal of ground, built fences and cabins, and are farming in earnest." However, as noted above, Inspector General Ludington had reported only 20 acres under cultivation by the Coeur d'Alenes only two months prior to Milroy's annual report.[73] Meanwhile, in his 1873 annual report, Milroy stressed the importance of the Indians being able to "keep control of their old and valuable fisheries" on the Spokane River while discussing the creation of reservations in eastern Washington and the Idaho Panhandle.[74]

In September 1874, Nez Perce Agent John Monteith—who assisted in the negotiation of the July 1873 agreement with the Coeur d'Alenes—reported grinding "about 1,200 bushels [of wheat] for the Spokan and Coeur d'Alene Indians" at his agency's mill. Noting that these Indians did not have a "mill of their own," Monteith claimed that they caused "no small amount of trouble" when they traveled with their "four to six hundred horses" to grind wheat at the Nez Perce Agency mill at Lapwai, Idaho. He thus recommended that the Indian Office establish a separate "saw and grist

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[69] E. H. Ludington, Assist. Inspector General, to A. A. Adjutant General, August 11, 1872, W-347, Roll 912, M234, frames 686–690, USA-CDA00021379.

[70] John A. Simms, Special Indian Agent, Fort Colville, to Milroy, November 20, 1872, M-359, Roll 912, M234, frames 1208–1214, USA-CDA00021423.

[71] Col. De L. Floyd Jones, Superintendent of Indian Affairs, Idaho Territory, to E. S. Parker, Commissioner of Indian Affairs, September 10, 1870, in ARCIA 1870, 182, USA-CDA00004124. Notably, the Cataldo Mission was not within the borders of the 1867 Coeur d'Alene Indian Reservation, so the farming being done by tribal members at the mission occurred outside reservation boundaries.

[72] Wm. P. Winans, Farmer in Charge, Fort Colville, to T. J. McKenny, Superintendent of Indian Affairs, Washington Territory, September 1, 1871, in ARCIA 1871, 710–711, USA-CDA00004131.

[73] R. H. Milroy, Superintendent of Indian Affairs, Washington Territory, to F. A. Walker, Commissioner of Indian Affairs, October 1, 1872, in ARCIA 1872, 342, USA-CDA00021799; E. H. Ludington, Assist. Inspector General, to A. A. Adjutant General, August 11, 1872, W-347, Roll 912, M234, frames 686–690, USA-CDA00021379.

[74] Milroy to E. P. Smith, Commissioner of Indian Affairs, October 20, 1873, in ARCIA 1873, 297, USA-CDA00021818.

mill" for the Coeur d'Alene and Spokane Tribes, arguing that this would help "break up so much of their nomadic disposition."[75]

Since Monteith did not specify how many bushels of wheat were brought to the Lapwai mill by the Spokane Tribe and how many were brought by the Coeur d'Alenes, it is impossible to determine how much, if any, wheat was cultivated by the Coeur d'Alene Tribe in 1874. Moreover, the statistical tables published in the commissioner's annual report for that year provide no clarity on this issue, as they showed no agricultural production by the "Coeur d'Alenes and Spokanes" in Idaho (who were listed as "without agency"). Notably, these tables list the Spokane Indians, but not the Coeur d'Alenes, among the eight tribes under the Colville Agency in Washington Territory, who collectively produced a reported 2,500 bushels of wheat in 1874. This may suggest that the 1,200 bushels reported by Monteith were actually produced entirely by the Spokane Tribe, but the historical evidence on this issue remains inconclusive.[76]

Despite the absence of conclusive evidence regarding agricultural production by the Coeur d'Alene Indians in the 1870s, the Wee Report includes a table showing production figures for the years 1874 and 1877–1879, which are extremely misleading. Titled "Agriculture and Stock Raising on Coeur d'Alene, 1874, 1877–1904, and 1906," the table purports to show farm production by the Coeur d'Alene Indians. However, as Wee admits, all of the figures for the 1870s "reflect aggregate totals for Indians at the Colville Agency." Since the Colville Agency had jurisdiction over at least eight other tribes during the 1870s, it is impossible to determine how much, if any, of the production listed on Wee's table was attributable to Coeur d'Alene farmers.[77]

Although agricultural activities increased among some Coeur d'Alene families during the 1880s and 1890s, this did not result in tribal members abandoning their traditional subsistence practices. Historian Laura Woodworth-Ney, for example, found that "some families continued to reside in the lake and river regions well into the twentieth century," asserting that "tribal waters continued to form the soul of the tribal landscape." Moreover, Woodworth-Ney argued that "the actual number of surplus-producing farms" during the 1870s and 1880s was "difficult to ascertain," noting that even successful tribal farmers did not rely entirely on agriculture for their subsistence.[78]

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[75] John B. Monteith, Indian Agent, Nez Perce Agency, to Edw. P. Smith, Commissioner of Indian Affairs, September 7, 1874, in ARCIA 1874, 285–286, USA-CDA00021832.

[76] Table Showing Extent and Quality of Lands, Agricultural Improvements, Stock, Productions, & c., in ARCIA 1874, 117, 121, USA-CDA00021837. See also page 104, where the annual report's population table lists the "Coeur d'Alenes, Pend d'Oreilles, and Kootenays" as "Indians in Idaho not under an agent." That same table, on page 110, lists the Spokane Indians under the "Colville Special Agency."

[77] Wee Report, 108.

[78] Woodworth-Ney, *Mapping Identity*, 90, USA-CDA00021719. For discussions of Coeur d'Alene agricultural progress during the 1880s, see, for example, Simms to the Commissioner of Indian Affairs, August 1, 1879, in ARCIA 1879, 247, USA-CDA00004236; Simms to the Commissioner of Indian Affairs, August 18, 1880, in ARCIA 1880, 276, USA-CDA00004251; Rickard Gwydir, Indian Agent, Colville Agency, to the Commissioner of Indian Affairs, August 31, 1887, in ARCIA 1887, 287, USA-CDA00004336; Hal J. Cole, Indian Agent, Colville Agency, to the Commissioner of Indian Affairs, August 15, 1889, in ARCIA 1889, 282–283, USA-CDA00004363.

The Seltice account similarly indicated that some tribal members remained at their traditional village sites along tribal waterways through the 1880s and 1890s. For example, Seltice stated that "a few families insisted on staying at the [Cataldo] Mission for their permanent homes," while other "families along the Coeur d'Alene River" were never "persuade[d] to leave for farming lands in the Palouse." Meanwhile, the Seltice history noted that many tribal members who moved to the DeSmet area in the late 1870s continued to rely significantly on hunting into the early 1900s. Andrew Youmas, for example, not only hunted elk in the Clearwater Mountains—where he was reportedly attacked by a grizzly bear in 1910—but also trapped beaver on the upper St. Joe River.[79]

Primary source documents from this period additionally verified that tribal members continued to rely on hunting, fishing, and gathering activities on their traditionally occupied lands through the 1880s, 1890s, and after the turn of the twentieth century. Reporting in February 1888 on the use of the lands in the so-called "Wolf Lodge district" in the 1873 reservation's northeastern corner, Commissioner J. D. C. Atkins indicated that Coeur d'Alene tribal members "occasionally go there hunting for elk and deer."[80] Meanwhile, in July 1891, the resident farmer at DeSmet complained about the difficulty of obtaining an "accurate" census of the Coeur d'Alene Tribe because many tribal members had "gone in to the mountains hunting and fishing which made it impossible to see them all."[81]

The 1889 negotiations between Coeur d'Alene leaders and the Simpson Commission also showed that tribal members continued to occupy lands along the Coeur d'Alene and Spokane Rivers that were ceded under the agreement signed on September 9, 1889. On August 31, Chief Andrew Seltice told the Simpson Commission, "There are five or six Indians who have claims on that land, and I want you to settle with them." Although the commissioners refused, stating that "all our business must be done with your people as a tribe," the issue arose again during the final council on September 8, when tribal leaders stated that there were "two old men living at the old [Cataldo] mission," as well as "four men living near Spokane bridge" and several other tribal members who held "improved places" lying "along the Coeur d'Alene River."[82]

Historical records from after the turn of the twentieth century similarly showed the ongoing importance of tribal waterways for the Coeur d'Alene Tribe's continued fishing, hunting, and gathering activities that occurred along rivers and lakes located both on and off the reservation. Of

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[79] Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 235, 244–246, USA-CDA00001740. Notably, the reported 1910 grizzly bear attack occurred after Andrew Seltice died in 1902, which reflects the complex origins of the Seltice history—a document that several individuals were involved in crafting over a nearly 100-year period prior to its publication in 1990. For a description of the provenance of the Seltice narrative and the "great deal of editing" that occurred prior to publication, see pages 9–11 of the *Saga*.

[80] J. D. C. Atkins, Commissioner of Indian Affairs, to the Secretary of the Interior, February 7, 1888, in Senate, *Letter from the Secretary*, 50th Congress, 1st session, February 13, 1888, S. Ex. Doc. 76, serial 2510, 6, USA-CDA00021564.

[81] T. R. Gildea, De Smet Mission Agency, to Major Hal J. Cole, Fort Spokane, Wash., July 2, 1891, File: Misc. Letters Rec'd Coeur d'Alene 1891, Box 33, Letters Received, Miscellaneous, Coeur d'Alene Reservation, 1891–1896, BIA Colville, RG 75, NARA-Seattle, Wee Report Footnote 218.

[82] Senate, *Message from the President . . . Relative to the Purchase of a Part of the Coeur d'Alene Reservation*, 51st Congress, 1st session, December 18, 1889, S. Ex. Doc. 14, serial 2679, 10–12, USA-CDA00003948.

particular interest in this regard were the 1910 hearings held by the Interior Department involving the Washington Water Power Company's license for its dams on the Spokane River. During these hearings, witnesses called by both the government and the company testified to the Coeur d'Alenes' continued and varied uses of their traditional waterways through the first decade of the 1900s.[83]

For example, in testimony given on January 4, 1910, St. Maries, Idaho, farmer A. J. L. Brewald reported seeing "Indians camped every place on that bank, I guess, up and down that [St. Joe] river, from the lake to the [reservation] line." Brewald further asserted that Coeur d'Alene tribal members had camped "on these high banks next [to] the river" during the summers "[p]ractically every year" since his settlement at St. Maries in 1884. Notably, Brewald's farm was located roughly two miles east of the reservation's eastern boundary, near a traditional Coeur d'Alene village site. Brewald also testified to the quality of the "trout fishing on the St. Joe River," noting that he had seen Indians fishing that stream in the spring, summer, and fall, as well as "through the ice" near the mouth of the St. Joe River "at the upper end of the lake." He likewise observed tribal members fishing "on Chatcolet Lake"—located within the post-1891 reservation boundaries—and claimed there was "pretty good hunting" for deer and ducks throughout the St. Joe River valley.[84]

Similarly, witnesses J. S. Pence, Adolphus Butler, and Clarence Boutelier—the latter of whom were adopted tribal members—testified to Indian hunting and fishing on Coeur d'Alene Reservation rivers and lakes during the 1890s and into the first decade of the twentieth century. Both Butler and Boutelier reported hunting for deer and ducks along the rivers, ponds, and marshes located between Lake Chatcolet and St. Maries, Idaho—again on lands situated within the post-1891 reservation—in addition to observing evidence of Coeur d'Alene fish traps in the St. Joe River valley.[85] Discussing

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[83] The testimony given by witnesses at the Washington Water Power's permit hearings in 1909–1910 are replete with evidence of the Tribe's ongoing uses of Coeur d'Alene waterways for fishing (including numerous mentions of the Indian fish traps near the old St. Joe Mission), village site locations, canoeing, and other traditional subsistence activities through the 1880s, 1890s, and the early 1900s. In addition to the examples discussed in the body text of the report, see also the testimony of the following individuals: Testimony of Thomas R. Dunson, January 8, 1910, vol. 3, Entry 1028: Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company,1909–10, Record Group 49: Records of the Bureau of Land Management [RG 49], NARA I, pp. 1010, 1054–1057, 1092, USA-CDA00008085; Testimony of J. A. Walters, January 11, 1910, vol. 4, Permit Hearing 1910, Department of the Interior, Records Relating to Legal Action Taken by the Washington Water Power Company [WWPC], Eastern Washington University Archives, Cheney, Washington [EWU Archives], pp. 1785–1786, USA-CDA00008128; Testimony of Arthur Darknell, January 12, 1910, vol. 5, Permit Hearing 1910, Department of the Interior, Records Relating to Legal Action Taken by the WWPC, EWU Archives, pp. 1864, 1900, USA-CDA00008233; Testimony of Captain Eli Laiard, January 12, 1910, vol. 5, Permit Hearing 1910, Department of the Interior, Records Relating to Legal Action Taken by the WWPC, EWU Archives, p. 1942, USA-CDA00008233; Testimony of G. F. Gilbert, February 14, 1910, vol. 11, Entry 1028, RG 49, NARA I, pp. D-3–D-4, USA-CDA00008472; Testimony of C. R. Botham, February 16, 1910, vol. 12, Entry 1028, RG 49, NARA I, pp. D-22–D-23, USA-CDA00008541; Testimony of Ralph Howard, February 18, 1910, vol. 12, Entry 1028, RG 49, NARA I, pp. D-3–D-5, USA-CDA00008541; Testimony of N. A. Doty, February 19, 1910, vol. 13, Entry 1028, RG 49, NARA I, pp. 5908–5909, 5916–5917, USA-CDA00008574; Testimony of Charles Smith, February 19, 1910, vol. 13, Entry 1028, RG 49, NARA I, p. 5976, USA-CDA00008574; Testimony of J. W. Edwards, February 21, 1910, vol. 13, Entry 1028, RG 49, NARA I, pp. 6035–6036, USA-CDA00008574; Testimony of Andrew Bloom, February 23, 1910, vol. 13, Entry 1028, RG 49, NARA I, pp. 6119–6121, USA-CDA00008574.

[84] Testimony of A. J. L. Brewald, January 4, 1910, vol. 2, Entry 1028, RG 49, NARA I, pp. 814, 819–821, USA-CDA00008049. For the location of the traditional Coeur d'Alene village site near St. Maries, Idaho, see Palmer, "Coeur d'Alene," in *Handbook*, vol. 12, 314, USA-CDA00021626.

[85] Testimony of Adolphus Butler, January 7, 1910, vol. 3, Entry 1028, RG 49, NARA I, pp. 1419–1420, 1488, USA-CDA00008085; and Testimony of Clarence Boutelier, January 10, 1910, vol. 4, Permit Hearing 1910, Department of the

the purpose of the fish traps that "the Indians put in there at some time or other," Pence stated that the traps were used by tribal members "to catch the fish" as they came "out of these bottoms when they have gone in there in the high water."[86]

The continued use of the fish traps along the lower St. Joseph River during the early 1900s was also confirmed by historian Pat Allen Pentland, whose grandparents "settled the St. Joe valley in 1905 and built a saw mill at the mouth of Benewah Creek, only one mile from Mission Point." Based on a 1972 interview with his grandparents, Pentland provided a detailed description of both the historic and ongoing uses of these fish traps near the site of the original Jesuit mission along the St. Joe River (often referred to as Mission Point). Pentland wrote:

> There also existed at Mission Point a fairly extensive construction of Indian fish traps, built between the end of the plateau and the river, across the outlets of present day Goose Haven Lake and Peterson Creek. These traps were apparently used to annually harvest the fish imprisoned in the flooded meadow lands each spring, which were attempting to pass back into the river as the high water receded. Being constructed from willows, this fishery obviously predated the mission itself, and was still used by the Indians at the turn of the century.[87]

The 1910 Washington Water Power hearings also provided evidence of the Coeur d'Alene Indians' continued uses of canoes for transport. Eastern Washington farmer H. S. Young, for example, testified that he ascended the St. Joe River "in an Indian canoe" in 1873, fishing and camping along the river's banks that summer.[88] Likewise, prospector B. F. Coplen borrowed an Indian dugout canoe during his 1870s camping and hunting trip near the mouth of the St. Joe River, which he claimed enabled him to "kill all the ducks I wanted."[89] Eastern Washington farmer Henry Collins, meanwhile, testified to using Coeur d'Alene Chief Peter Moctelme's boat while fishing near Benewah Lake in the early 1890s.[90] Other witnesses also reported the presence of Indian camps and Coeur d'Alene fishing and hunting activities near the mouth of the St. Joe River and on the lands between Chatcolet and Benewah Lakes.[91]

Interior, Records Relating to Legal Action Taken by the WWPC, EWU Archives, pp. 1628, 1637–1638, 1645, 1656, 1658–1660, 1690–1691, 1700, USA-CDA00008128.

[86] Testimony of J. S. Pence, January 6, 1910, vol. 3, Entry 1028, RG 49, NARA I, pp. 1297–1298 [X-6–X-7], USA-CDA00008085.

[87] Pat Allen Pentland, "The Illfated Mission: The Sacred Heart Mission on the St. Joe River, 1842–1846," M.A. thesis, May 1973, Gonzaga University, p. 42, copy from Sacred Heart Collection, Box 10, Special Collections, Gonzaga University, Hart Exhibit No. 699.

[88] Testimony of H. S. Young, February 11, 1910, vol. 10, Permit Hearing 1910, Department of the Interior, Records Relating to Legal Action Taken by the WWPC, EWU, pp. 4869–4870, USA-CDA00008363.

[89] Testimony of B. F. Coplen, February 14, 1910, vol. 11, Entry 1028, RG 49, NARA I, p. 5243 [frame 0307], USA-CDA00008472.

[90] Testimony of Henry W. Collins, February 12, 1910, vol. 11, Entry 1028, RG 49, NARA I, pp. 5076–5077 [X-41–X-42], USA-CDA00008472.

[91] Testimony of J. B. Gilbert, February 9, 1910, vol. 10, Permit Hearing 1910, Department of the Interior, Records Relating to Legal Action Taken by the WWPC, EWU, pp. 4517–4519, USA-CDA00008363; Testimony of [Oscar] Wallace, February 17, 1910, vol. 12, Entry 1028, RG 49, NARA I, pp. 5573–5574 [D-9–D-10], USA-CDA00008541.

Documents written in the 1890s and early 1900s during the negotiations involving the creation of Heyburn State Park and the town site of Harrison, Idaho, provided further evidence of the ongoing significance of hunting and fishing activities for tribal members. For example, during a February 6, 1894, meeting, Coeur d'Alene leaders told government negotiators, "Where Harrison now stands was the place where the Indians used to fish." Located east of Lake Coeur d'Alene near the mouth of the Coeur d'Alene River, Harrison first attracted non-Indians who only had "the intention to fish" and not build a permanent "town site," according to Chief Andrew Seltice.[92]

Meanwhile, the lands within present-day Heyburn State Park, which "principally skirt[ed] the small lake named 'Chatcolet'," were likewise noted as being "a favorite camping and fishing place" for tribal members, as well as "the white people in this vicinity." According to Coeur d'Alene Agency officials, the Tribe believed the park would "preserve to them, the right to camp and fish at this resort."[93] Importantly, the lands within the modern park were historically occupied by Chief Peter Moctelme, a vehement opponent of allotment who, in 1908, was operating "a ferry across the St. Joe River, and a number of small row boats which he rents to summer visitors." After initially approving Moctelme's request to obtain an 80-acre allotment on the shores of Chatcolet Lake, federal officials subsequently denied the tribal leader's request and sold the land to the State of Idaho under the terms of the Act of April 30, 1908.[94]

In the spring of 1911—less than three months after the State of Idaho acquired title to the land within Heyburn State Park—Moctelme and another tribal member indicated their desire to continue fishing at the mouth of Plummer Creek, which emptied into Chatcolet Lake. According to the superintendent of the Coeur d'Alene Agency, the Indians had "fished in this place regularly for years."[95]

As such examples illustrate, historical documents from the early 1900s showed that the Coeur d'Alene Indians continued to rely on the waterways within their aboriginal territory as they had for centuries before the creation of their reservation in 1873 for ongoing fishing, hunting, and gathering activities. While some tribal members expanded their agricultural production during the 1880s, 1890s, and into the twentieth century, extant historical evidence clearly indicates that they did not

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[92] Coeur d'Alene Council, February 6–7, 1894, in House, *Agreement with Coeur d'Alene Indians*, 53d Congress, 2d session, March 23, 1894, H. Ex. Doc. 158, serial 3226, 11–12, USA-CDA00003854.

[93] W. B. Sams, Special Allotting Agent, and Charles O. Worley, Superintendent, to the Commissioner of Indian Affairs, January 30, 1908, in Senate, *To Establish a Park on the Coeur d'Alene Indian Reservation*, 60th Congress, 1st session, February 18, 1908, S. Rpt. 251, 2, USA-CDA00003999; Worley and Sams to the Commissioner of Indian Affairs, January 11, 1909, Letters Received, RG 75, NARA I, USA-CDA00006277.

[94] Acting Commissioner to W. B. Sams, Special Allotting Agent, April 23, 1908, File: 17109-1908-Coeur d'Alene-313, Box 55, Coeur d'Alene Agency, CCF 1907–1939, RG 75, NARA I; Chief Clerk to W. B. Sams, January 30, 1909, File: 1719-1909-Coeur d'Alene-307.2, Box 37, Coeur d'Alene Agency, CCF 1907–1939, RG 75, NARA I; and R. A. Ballinger, Secretary of the Interior, to W. B. Heyburn, U.S. Senate, January 23, 1911, File: Coeur d'Alene Indian Reservation No. I Sales 1915 and 1917, Box 15, Entry 27, Division K, Indian Reserves 1907–1955, RG 49, NARA I; all in Wee Report Footnote 310.

[95] Supt. & SDA, Tekoa, Washington, to Fish and Game Warden, Boise, Idaho, March 9, 1911, Volume: Misc. 4th Nov. 1910 to 9/9/11, Box 3, Miscellaneous Letters Sent, 1909–11, Coeur d'Alene Agency, RG 75, NARA-Seattle, Wee Report Footnote 262.

abandon their traditional subsistence practices. Instead, as they had done since the arrival of the Jesuits in the 1840s, the Coeur d'Alene Indians continued to rely on a mix of hunting, fishing, camas digging, and berry gathering, as well as agriculture, to provide for their subsistence in the decades both leading up to and following the establishment of the Coeur d'Alene Indian Reservation.

2.2.3 *Tribal Movement to the DeSmet Area Occurred After the 1873 Establishment of the Coeur d'Alene Reservation*

Despite historical evidence to the contrary, Wee suggests in his report that the majority of Coeur d'Alene tribal members had migrated away from their traditional village sites and were cultivating farms in the DeSmet area, along Hangman Creek, prior to the 1873 expansion of their reservation. On page 34, for example, the Wee Report states that, "By mid-1872, much of the tribe had relocated either whole or in part to the Hangman Creek area." Two pages earlier, Wee claims that the borders of the 1867 Coeur d'Alene Reservation "reflected" the Tribe's "growing settlement of the Palouse." Unsupported statements such as these lead Wee to the conclusion that, "Tribal devotion to Euro-American agriculture had been the linchpin of the Coeur d'Alene argument for a reservation, and many Coeur d'Alene had already transformed themselves into agriculturalists, abandoning aboriginal ways, decades before allotment."[96]

In contrast to Wee's depiction of the Coeur d'Alenes' removal to the modern-day DeSmet area, anthropologist Gary Palmer—who has studied the Tribe's aboriginal lifeways and traditional village sites extensively and published an article analyzing tribal members' settlement along Hangman Creek—concluded that this movement did not occur until the late 1870s. Palmer indicated that the Tribe's "traditional semi-nomadic subsistence rounds" became "less tenable" in the 1870s because of "the encroachment of non-Indians and the lack of sufficient farming land at the [Cataldo] mission." According to Palmer, this led some tribal members to "expand their farms and adopt the Euroamerican agricultural system," with a few possibly moving to the DeSmet area by 1874. However, he found that the large-scale migration to lands in the Hangman Creek valley did not begin in earnest until 1876, when Father Diomedi arrived at Cataldo and began advocating for the move. Palmer indicated that most tribal members had relocated "[b]y November 1877."[97]

Primary source documents from the 1880s confirm the late 1870s date of the Tribe's relocation to the DeSmet region. In a March 1885 petition to the President of the United States, Coeur d'Alene leaders stated that the Tribe had "removed, in 1877, to the place they now occupy."[98] Forwarding this 1885 petition, "resident farmer" James O'Neill provided additional details about the move to lands along Hangman Creek. According to O'Neill, a tribal member named Nicodemus was among

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[96] Wee Report, 32, 34, 147.

[97] Gary B. Palmer, "Indian Pioneers: The Settlement of Ni'lukhwalqw (Upper Hangman Creek, Idaho) by the Schitsu'umsh (Coeur d'Alene Indians)," *Oregon Historical Quarterly* 102, no. 1 (Spring 2001): 27, 30, 34–35, 38, USA-CDA00021693.

[98] Seltice, et al., to the President, et al., March 23, 1885, in Senate, *Letter from the Acting Secretary*, 49th Congress, 1st session, April 9, 1886, S. Ex. Doc. 122, serial 2340, 10, USA-CDA00003919.

the first Coeur d'Alene Indians who "commenced farming" near present-day DeSmet in 1875. In the spring of 1876, O'Neill reported that "two or three more opened small farms." By "1877 or 1878," the Coeur d'Alenes had reportedly "all commenced making small farms" in the DeSmet area and as far north as the Spokane River. Stating that tribal members "struggled along as best they could" on these "small farms" through the late 1870s and early 1880s, O'Neill wrote:

> In 1877 or 1878 they all commenced making small farms in different localities upon the reserve from "Stallams" village, farms near the Spokane River near Crowley's bridge, running south to the present mission nearly 40 miles, embracing within that distance some six or seven villages, the largest being near the present mission (De Smet) at the head of the Latah or Hangman Creek. Nearly two hundred farms have been opened. For the first two or three years they struggled along as best they could, being poor and unable to purchase the necessary farming implements.[99]

The timeline reported by O'Neill in 1885 corresponds with the dates indicated by Father Alexander Diomedi, who published an account of the Tribe's move to the DeSmet area a decade after O'Neill's report. When Diomedi arrived at the Cataldo Mission in 1876, he reported that the Coeur d'Alene tribal members were "located in camps scattered over a radius of fifty miles," with a reported "twenty-five families" living near the Cataldo Mission and other large villages "on the St. Joe, about fifteen miles from the mission," and "at Spokane Bridge, where from ten to twelve families were living under the direction of a chief." Diomedi wrote that there were also "many small camps dispersed all through the country." The Tribe's continued occupation of traditional, water-based village sites "scattered" throughout their aboriginal territory, along with their desire "to remain where they were," stood as significant obstacles to the Jesuits' desire for them to move to the southern part of their reservation and establish an agricultural settlement there. Diomedi deemed it

> a very difficult task to induce these Indians to leave their houses, which constituted almost their entire property, and the land of their homes, to go and live on a prairie where only very hard work would procure them the means of living. Most of them would naturally prefer to remain where they were, and the few who would be willing to move, would only render the tribe still more scattered, and therefore the management and government of the whole yet more complicated than it already was.[100]

Although his Jesuit colleagues reportedly considered it "an impossibility to make the whole tribe take up land and settle down as farmers" prior to 1876, Diomedi began pushing for this to occur soon after his arrival at the Cataldo Mission. As indicated in his 1890s account, Diomedi wanted "the whole tribe" to move to the "beautiful and fertile prairie" known as "Nilgoalko," where "all the different camps of the Coeur d'Alene, as well as people from the surrounding tribes, had been accustomed to assemble during the summer season to dig camas." Still "covered with tall bunch-grass" in 1876, the Tribe's traditional camas-digging grounds were reportedly "well watered" and "held the moisture well during the dry season." The Jesuits at Cataldo envisioned a future where this

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[99] James O'Neil, Resident Farmer, Coeur d'Alene, to Sidney D. Waters, Indian Agent, Colville Agency, March 26, 1885, in Senate, *Letter from the Acting Secretary*, 49th Congress, 1st session, April 9, 1886, S. Ex. Doc. 122, serial 2340, 12, USA-CDA00003919. Note that, according to Nicholas Point, Chief Stellam's village was located where Lake Coeur d'Alene "empties into the Spokane River." See Point, *Wilderness Kingdom*, 62, USA-CDA00002715.

[100] Diomedi, *Sketches of Indian Life in the Pacific Northwest*, 64, USA-CDA00001366.

area—which had been "a part of their reservation" since 1867—would become "the chief and permanent settlement of the whole tribe."[101]

As the Wee Report shows by quoting extensively from both Diomedi's account and the 1930s memoir of tribal member Basil Peone (who, according to Palmer, had "learned of the speech from Peter Moctelme"), there are differing versions of the entreaties made by the Jesuits to encourage the relocation of the Tribe and the Jesuit mission to the DeSmet area. The most noteworthy difference, according to Palmer, was the emphasis in "the Moctelme-Peone version" on "the enumeration of all the edible things in the environment, including big game, birds, fish, and camas," as well as an overarching "theme of lack and plenty" that was reflected in the Coeur d'Alene version's discussion about the "lack of land at Cataldo and the vastness of the lands to the south."[102]

Irrespective of the differences between these accounts, however, neither Diomedi nor Peone claimed that the large-scale movement of tribal members to the DeSmet area occurred before the November 1873 executive order expanding the reservation. In fact, Diomedi's version indicated that, even after consistently making appeals in sermons "from November [1876] until the following February [1877]," some tribal members remained "much opposed to the moving of the tribe." He also visited tribal leaders in the spring of 1877—including Andrew Seltice, who he described as "not altogether unfriendly to my plan"—to increase support for the move. Diomedi's description of his spring 1877 journey is telling, since none of the leaders with whom he met were reported as having already located in the DeSmet region. Notably, while traveling to Spokane Bridge, Diomedi shared a meal of camas, dried fish, "a few potatoes and some trout," with "a very old couple in a lodge" on Rock Creek. He also used "Indian canoes" to travel from Cataldo to DeSmet, "rowing for two days down the Coeur d'Alene River and across Coeur d'Alene Lake."[103]

There is extant historical evidence indicating that a few pioneering tribal members began staking claims to lands in the Hangman Creek valley prior to 1873. For example, as Wee notes in his report, Captain George Sanford reported encountering "a Coeur d'Alene village occupied by a Chief called Salteesh" in May 1872 along an unnamed creek (likely Hangman Creek) in what he called "Paradise Valley." Claiming that the Indians were "strongly attached to the valley," Sanford reported that they had "ploughed up a great deal of ground, built fences and cabins and are farming in earnest."[104] As noted above, however, another military official reported that these Indians had only 20 acres under cultivation in August 1872.[105] Meanwhile, in his August 1873 report on the negotiations with the

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[101] Diomedi, *Sketches of Indian Life in the Pacific Northwest*, 63–64, USA-CDA00001366.

[102] Wee Report, 46–48; Palmer, "Indian Pioneers," 31–32, USA-CDA00021693.

[103] Diomedi, *Sketches of Indian Life in the Pacific Northwest*, 69–75, USA-CDA00001366.

[104] George B. Sanford, Captain, 1st Cavalry, to Assistant Adjutant General, Department of the Columbia, June 1, 1872, W-347, Roll 912, M234, frames 690–692, USA-CDA00021374.

[105] E. H. Ludington, Assist. Inspector General, to A. A. Adjutant General, August 11, 1872, W-347, Roll 912, M234, frames 686–690, USA-CDA00021379.

Coeur d'Alenes, Agent Monteith likewise suggested that the "Seltis band" had begun using "[t]he valley of the Latah or Hangman Creek."[106]

Joseph Seltice's account of his father's remembrances also stated that "the Seltice and Wildshoe families" made claims and began preparing lands for future settlement in the Hangman Creek valley prior to the 1873 executive order. However, Seltice reported that this was "a long slow move" that occurred gradually, and the families "did not move permanently at first." Describing the "difficult and time-consuming" nature of these families' move, Seltice indicated that both Wildshoe and Seltice had large numbers of "cattle and horses" on their lands in the Spokane valley and that neither family would "move their herds for two or three years." Meanwhile, he argued that most families residing "along the Coeur d'Alene and St. Joe Rivers" ultimately "changed their minds" about moving to DeSmet following "a bad crop failure along the Coeur d'Alene River in 1875" and thus "had nothing to do with Father Alexander Diomedi's ordering everybody to go."[107]

When assessing the information in the Seltice *Saga*, though, it is important to note that the dates provided are likely imprecise and unreliable, given the complicated provenance of this document, which changed hands several times and involved "a great deal of editing" prior to its publication in 1990. Joseph Seltice did not obtain possession of "the narrations and notes" from his father, Chief Andrew Seltice, until his brother's death in 1909. From 1909 until 1949, Joseph "carried his father's narrations in a little suitcase, along with many notes from his own extensive interviews with elders and from his readings in history," writing "two different manuscript versions of these combined historical materials" prior to his death. After 1949, these manuscripts "passed into the hands" of several others individuals, including Joseph's daughter Marceline Seltice Kevis, Rev. Edward J. Kowrach, and Rev. Thomas E. Connolly, the latter two of whom "reconcil[ed] the two manuscripts" and "prepare[d] them for publication."[108]

The complex origins of the Seltice history aside, even this account does not support Wee's assertion that the majority of Coeur d'Alene tribal members had taken up farms in the Hangman Creek valley prior to President Grant's November 1873 executive order. As with his arguments about the establishment of the Coeur d'Alene Reservation and the Tribe's purported abandonment of traditional subsistence activities, Wee's analysis of the move to the DeSmet area is not supported by the extant historical record.

2.3 Additional Inaccuracies in the Wee Report

In addition to the above problems with Wee's analysis of the establishment of the Coeur d'Alene Indian Reservation and the purposes for which the reservation was created, the Wee Report includes

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[106] Jno. B. Monteith, Indian Agent, Nez Perce Agency, to Edw. P. Smith, Commissioner of Indian Affairs, August 6, 1873, M-407, Roll 341, M234, frames 547–552, USA-CDA00021501.

[107] Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 236–237, USA-CDA00001740.

[108] Kowrach and Connelly, eds., *Saga of the Coeur D'Alene Indians*, 9–10, USA-CDA00001740.

several other interpretive inconsistencies that are worthy of note. Two such examples are: (1) Wee's insistence throughout his report that the Coeur d'Alenes never relied on irrigation to support their agricultural endeavors; and (2) his inaccurate analysis of the impact of the 1906 Coeur d'Alene Allotment Act on the so-called "surplus" unallotted lands within the reservation. While these topics do not directly relate to the purposes for which the reservation was created, they reflect broader issues with the reliability of Wee's historical analysis and, thus, the credibility of his entire report.

2.3.1 *Wee's Sources Do Not Support His Conclusions about the Alleged Lack of Historic Irrigation by the Coeur d'Alene Tribe*

Throughout his report, Wee argues that Coeur d'Alene tribal members raised crops "without the irrigation diversion and storage works seen elsewhere in the American West," asserting that even the Tribe's earliest agricultural activities near the Cataldo Mission on the Coeur d'Alene River mirrored "those of non-Indian farmers in the Palouse region of eastern Washington: dry-farming of grains, supplemented by livestock raising." Claiming he found "[n]o historical evidence" that the Coeur d'Alene Indians used irrigation, Wee maintains that the Tribe relied entirely on "dry farming" practices that "closely paralleled that of the Palouse overall, with a focus on dry farming of grains supplemented by stock raising."[109]

To support these conclusions, Wee relies primarily on secondary sources—in particular, the work of historian Andrew Duffin—that analyzed the development of non-Indian agriculture in the Palouse region, the majority of which lies in southeastern Washington. Duffin's Ph.D. dissertation included the western edge of Latah County, Idaho, within his study area, but only a sliver of land along the southern boundary of the Coeur d'Alene Reservation was encompassed therein.[110] Meanwhile, historian Keith Williams excluded the reservation by drawing "an imaginary line between Cheney, Washington, and Potlatch, Idaho" as a defining northern boundary of the Palouse region.[111] And Gilbert Fite's analysis of the Red River Valley in the Dakotas—which Wee cites on page 127 to discuss the increasingly national market for Palouse agricultural products in the 1870s—is not applicable to the Couer d'Alene Reservation.[112]

More importantly, none of the secondary sources cited by Wee included an analysis of tribal farming either at the Cataldo Mission on the Coeur d'Alene River—which is unequivocally outside the Palouse region—or in the Hangman Creek valley as part of their studies. Instead, these sources

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[109] Wee Report, 2, 19, 25, 107, 168.

[110] Andrew Phillip Duffin, "Fill the Earth and Subdue It: The Environmental Consequences of Intensive Agriculture in the Palouse," Ph.D. dissertation, Washington State University, 2003, 2, Wee Report Footnote 268.

[111] Keith Roy Williams, "Hills of Gold: A History of Wheat Production Technologies in the Palouse Region of Washington and Idaho," Ph.D. dissertation, Washington State University, 1991, 7, Wee Report Footnote 318.

[112] Fite's focused study area is "the Red River Valley…an unusually flat, fertile plain stretching northward about 300 miles to Lake Winnipeg from the tri-state juncture of the Dakotas and Minnesota." Gilbert Fite, "Bonanza Farming in the Red River Valley of the North," in *The Farmers' Frontier 1865–1900* (New York, NY: Holt, Rinehart and Winston, 1966), 75, Wee Report Footnote 319.

focused entirely on white farmers operating in the Palouse. While Duffin noted that the Palouse country was traditionally inhabited by the Palouse Indians, he indicated that "by the turn of the twentieth century, most of its members had been relocated to the Yakima, Colville, Umatilla, Nez Perce, or Warm Springs Reservations." The Coeur d'Alene Tribe, meanwhile, is mentioned as sharing its traditional camas fields with other nearby tribes, but there is no analysis of Coeur d'Alene tribal members as farmers.[113]

In short, Wee fails to show how his secondary sources prove that the pre-1873 agricultural activities of the Coeur d'Alene Indians reflected the late-nineteenth-century dry-farming practices of non-Indian settlers in the Palouse. Lacking any primary source evidence to support this conclusion, Wee simply argues that because he did not see descriptions of tribal members using "irrigation works such as dams and ditch systems," they must have relied on the dry-farming techniques of non-Indian Palouse-area settlers.[114]

This argument, however, is untenable, given that the vast majority of the Tribe's limited pre-1873 agricultural efforts focused on lands near the Cataldo Mission, in an area located wholly outside the Palouse region. Moreover, as Williams indicated in his study, dryland farming by non-Indians on "the Palouse hillsides" did not occur until the "late 1870s." According to Williams, the earliest settlers preferred "streamside bottomlands" and left the "two- to three-foot-tall carpet of bunchgrass which covered the Palouse hills" untouched until several years after the creation of the Coeur d'Alene Reservation. The Wee Report does not provide any evidence that tribal farmers dry-farmed the hillsides in the Hangman Creek valley—or anywhere else within the reservation—prior to the advent of dry farming in the Palouse region. Instead, the historical record shows that the minimal amount of farming by tribal members prior to 1873 occurred along waterways such as the Coeur d'Alene River, where water could be diverted to cultivated areas with little difficulty.[115]

2.3.2 *The 1906 Coeur d'Alene Allotment Act Did Not Restore Surplus Lands to the Public Domain*

In the second half of his report, Wee suggests that the Coeur d'Alene Allotment Act of June 21, 1906, ended tribal interests in the reservation's so-called "surplus," unallotted lands by conflating the opening of the reservation with the restoration of those surplus lands to the public domain.[116] For instance, Wee claims that the reservation's unallotted lands were "relinquished" under the 1906 act, and that the lands "remained alienated from the tribe" until passage of the Act of May 19, 1958.[117]

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[113] Duffin, "Fill the Earth and Subdue It," 11–12, 28–31, 35, Wee Report Footnote 268. See also Andrew P. Duffin, *Plowed Under: Agriculture & Environment in the Palouse* (Seattle, WA: University of Washington Press, 2007), Wee Report Footnote 318.

[114] Wee Report, 25, 169.

[115] Williams, "Hills of Gold," 13, 15, 19, Wee Report Footnote 318.

[116] Wee Report, 115, 118, 125, 128, 147, 148, 154–157, 161.

[117] Wee Report, 154, 156.

Wee's assertions, however, are based on an inaccurate analysis of the 1906 allotment law, which he views through the lens of the Act of May 19, 1958, and its reference to "vacant and undisposed-of ceded lands."[118] As shown below, the 1958 act's imprecise use of the term "ceded" causes Wee to misinterpret the impact of the 1906 Coeur d'Alene Allotment Act on the so-called "surplus" lands within the Coeur d'Alene Reservation.

On page 119 of his report, Wee indicates that the 1906 act "opened" surplus, unallotted lands for settlement, but he asserts that the lands were "restored to the public domain"—a claim not supported by the historical record. Although he quotes from an Interior Department order of September 19, 1934, that discusses these types of openings, his selective reading of this document leads, in part, to his erroneous conclusion that the reservation's unsold surplus lands had been "lost" to the Tribe and were only "former-reservation lands" as of 1934.[119] Despite Wee's assertion, the order, written by Commissioner of Indian Affairs John Collier and approved by Secretary of the Interior Harold Ickes, clearly indicated that "opened" lands—including the surplus lands at Coeur d'Alene—"remain[ed] the property of the Indians until disposed of as provided by law."[120]

In particular, Wee overlooks the 1934 order's distinction between "ceded" and "opened" lands. According to Collier, the "early years" of federal negotiations with Indian tribes often produced treaties, agreements, and legislation under which Indians would "relinquish or cede" specific tracts of land for lump sum payments, resulting in "an extinguishment of the Indian title." By contrast, Collier argued that, during the 1890s and early 1900s, Congress "adopted the plan of opening to entry, sale, etc., the lands of reservations that were not needed for allotment, the Government taking over the lands only as trustee for the Indians." Instead of paying tribes outright for these "opened" or "surplus" lands, the United States would reimburse the Indians "only as the lands were sold," and the government would not be "bound to purchase any portion of the lands so opened." The 1934 order stated that, "Undisposed of lands of this class remain the property of the Indians until disposed of as provided by law (*Ash Sheep Company v. United States*, 252 U.S. 159)."[121]

The 1906 Coeur d'Alene Allotment Act's handling of surplus lands bore all the hallmarks of the class of lands that remained "the property of the Indians" according to the 1934 withdrawal order. As described in the 1934 order, the Act of June 21, 1906, stipulated that the net proceeds of sales of "opened" or "surplus" lands were to be deposited on behalf of the Coeur d'Alene Tribe only as individual tracts were sold to settlers—the law did not include a lump sum payment to the Tribe. The 1906 act also indicated that its purpose was "merely to have the United States to act as trustee for said Indians in the disposition and sales of said lands and to expend or pay over to them the net

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[118] Act of May 19, 1958, 72 Stat. 121, Wee Report Footnote 426.

[119] Wee Report, 118–119, 155–156.

[120] Departmental Order, approved September 19, 1934, in George A. Warren, ed., *Decisions of the Department of the Interior Volume 54, July 1, 1932–September 30, 1934* (Washington, D.C.: GPO, 1935), 560 [hereinafter cited as 54 I.D. 560], USA-CDA00021983.

[121] Departmental Order, approved September 19, 1934, 54 I.D. 559–560, USA-CDA00021983. See also Prucha, *Great Father*, 867, Wee Report Footnote 373.

proceeds derived from the sales as herein provided." Congress further stipulated that nothing in the law would "bind the United States to find purchasers for any of said lands."[122]

The 1934 withdrawal order also explicitly cited the 1906 allotment act and listed the Coeur d'Alene Reservation as one of nearly 30 reservations whose surplus lands "undoubtedly" fell under the class of opened—not ceded—lands that the Indian Reorganization Act (IRA) intended to restore to tribes. Wee, however, overlooks this clear distinction by conflating "opened" lands with the "ceded" lands described in the 1934 order. In fact, the portion of the 1934 order quoted in the Wee Report is not applicable to the surplus lands under the 1906 Coeur d'Alene Allotment Act, but instead only addresses lands that "became the property of the United States by outright cessions from the Indian owners."[123]

Meanwhile, Section 3 of the IRA—also cited in the 1934 order—authorized the secretary to restore any "remaining surplus lands" to "tribal ownership," provided that tribes voted to accept the IRA. Since Coeur d'Alene leaders rejected the IRA and did not adopt a constitution until 1947, the "temporary withdrawal" approved by Secretary Ickes in 1934 remained effective for more than two decades.[124] As such, the reservation's unsold surplus lands—which, according to the 1934 order, had "remain[ed] the property of the Indians"— continued to be withdrawn from further non-Indian settlement and entry through the 1940s and 1950s.[125] However, because Wee erroneously suggests that the Tribe had "relinquished" its unsold surplus lands under the 1906 allotment law, he mistakenly interprets the Tribe's lack of a federally approved constitution between 1934 and 1947 as having prolonged the period during which such lands were allegedly "alienated" from the Tribe.[126]

Significantly, none of the language in the 1906 act indicated that the Coeur d'Alene Tribe had "ceded" or "relinquished" any reservation lands. Although the Tribal Restoration Act of May 19, 1958, included wording suggesting that the reservation's surplus lands had been "ceded," the intent of that law was not to alter the pre-1958 status of these unsold surplus lands. Furthermore, a close reading of the legislative history of the Act of May 19, 1958, offers a more accurate understanding of Congress's purpose when enacting it.[127]

In his discussion of the 1958 act on pages 158 through 161, Wee misses key aspects of this legislative history and emphasizes the alleged "ceded" status of the lands slated for restoration to the Tribe. He writes: "Into the late 1950s, a significant portion of the tribe's former lands remained alienated from the Coeur d'Alene, and the tribal leadership was interested in re-acquiring that

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[122] Act of June 21, 1906, 34 Stat. 325 at 335–338, Wee Report Footnote 292; Departmental Order, approved September 19, 1934, 54 I.D. 560, USA-CDA00021983.

[123] Departmental Order, approved September 19, 1934, 54 I.D. 560–562, USA-CDA00021983; Wee Report, 155.

[124] Act of June 18, 1934, 48 Stat. 984, USA-CDA00021977; Wee Report, 154, footnote 399.

[125] Departmental Order, approved September 19, 1934, 54 I.D. 560, USA-CDA00021983.

[126] Wee Report, 154–156.

[127] Act of June 21, 1906, 34 Stat. 325 at 335, Wee Report Footnote 292; Departmental Order, approved September 19, 1934, 54 I.D. 560, USA-CDA00021983; Act of May 19, 1958, 72 Stat. 121, Wee Report Footnote 426.

land."[128] Wee cites extensively from the hearings on two nearly identical bills, H.R. 3490 and H.R. 8544, yet he fails to notice the linguistic subtleties therein, which, in turn, significantly impacts his understanding of the 1958 act.[129]

The most important pertains to the use of the words "surplus" and "ceded." Notably, the author of the bills, U.S. Representative Lee Metcalf (D-Montana), used the terms "surplus" and "ceded" interchangeably when referencing the lands slated for restoration. Although imprecise, Metcalf's alternating use of these terms ultimately mattered little in the context of what his bills intended to accomplish—that is, making the Interior Department's 1934 withdrawal order permanent to preclude future non-Indian settlement on the Coeur d'Alene Reservation's unsold surplus lands.[130]

Metcalf's initial description of the subject lands during the January 1958 hearings was the most nuanced and provides important context for interpreting the congressional debates that followed. He explained:

> The Government opened the reservation[s] to settlement and took surplus land of the reservations and opened them under a custody agreement whereby the Government told the Indians they would take the land and permit it to be settled under the Homestead Act, but all that the Indians were to receive from this so-called surplus or ceded land was the land fee for the settlement of those lands.[131]

Importantly, Metcalf indicated that the federal government had offered these surplus lands for sale "under a custody agreement" until the "so-called surplus or ceded" lands were sold, at which time the Indians would receive payment. The surplus lands slated for restoration on the Coeur d'Alene Reservation (and four other reservations in Washington, Montana, and California) had never sold to settlers.[132]

Stating that those tribes "who complied with the Indian Reorganization Act" had already "receive[d] their land back," Metcalf asserted that the 1958 act was intended to restore lands to the five "remaining" non-IRA tribes, "just as we treated the other 25 tribes under the [IRA] and several other tribes in subsequent Acts." Again, he used "surplus" and "ceded" synonymously when he recounted the IRA's intent with regard to restoring unsold surplus lands. Additionally, Metcalf reiterated the trust status of these undisposed-of lands, noting that the federal government had continued "holding" the tribes' unsold "surplus or ceded lands" for benefit of the Indians:

> When the Indian Reorganization Act was passed one of the pieces of bait held out to the Indians to comply with the terms of the Reorganization Act was the promise that they would be returned their

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[128] Wee Report, 159.

[129] Statement of the Honorable Lee Metcalf, Member of Congress from the State of Montana, January 13, 1958, 2, Wee Report Footnote 422. In addition to correcting the acreage to be restored on the Klamath Reservation, H.R. 8544 replaced the term "surplus ceded lands" with the phrase "vacant and undisposed of ceded lands."

[130] For a discussion of the difference between "surplus" or "opened" lands and lands that had been "ceded" by tribes, see Departmental Order, approved September 19, 1934, 54 I.D. 559–560, USA-CDA00021983.

[131] Statement of the Honorable Lee Metcalf, Member of Congress from the State of Montana, January 13, 1958, 2, Wee Report Footnote 422.

[132] Statement of the Honorable Lee Metcalf, Member of Congress from the State of Montana, January 13, 1958, 2, Wee Report Footnote 422.

> surplus or ceded lands, which the Government was holding for them and for which they had received no payment whatsoever.[133]

At times during the January 1958 hearing, Metcalf used the term "ceded" instead of "surplus" while unmistakably making reference to the same class of lands. For example, at one point, he explained: "This bill returns and restores the ceded unoccupied land which has been withdrawn since about 1935 and held in trust for the Indians."[134] Even though Metcalf and other legislators sometimes used "ceded" in place of "surplus" to describe the lands to be restored to the tribes under the 1958 act, the intent of the law was not to determine whether these unsold surplus lands had been ceded under the original allotment laws that had authorized their opening. Instead, the act sought to make the Interior Department's 1934 withdrawal order permanent with regard to these tracts by ensuring that the United States could no longer "dispose of" them and by "assur[ing] the Indians of their continued use of the lands."[135]

As H. R. 8544 moved through Congress in early 1958, the House and Senate Committees on Interior and Insular Affairs each submitted reports that also used the term "ceded" in reference to these unsold surplus lands, but nonetheless confirmed that the lands had remained held in trust on behalf of the Tribe. Wee apparently did not review these documents. Both reports recounted the history of the unsold surplus lands on the Coeur d'Alene Reservation (and four other reservations) and referred specifically to the 1934 withdrawal order. Notably, the two reports also cited Supreme Court cases—one of which was also cited in the 1934 order—as evidence that the Indians had maintained "beneficial ownership" of the opened, undisposed-of lands. The following passage appeared in both reports:

> In a series of cases (*United States v. Brindle*, 110 U.S. 688, 690, 693; *Minnesota v. Hitchcock*, 185 U.S. 337, 394–395; *United States v. Mille Lac Chippewas*, 229 U.S. 498, 509; *Ash Sheep Co. v. United States*, 252 U.S. 159, 164–166) the Supreme Court of the United States has held that this land continued in the beneficial ownership of the Indians even though they had ceded 'all right, title, and interest.' So the net effect of H.R. 8544 is to clarify the Indian title to these lands in order that they may be managed and administered by the tribes.[136]

Lacking a close examination of the legislative history leading up to the passage of the Act of May 19, 1958, Wee comes to a flawed conclusion—namely, that the 1906 allotment law placed the Coeur d'Alene Reservation's surplus lands in the public domain and that those lands "remained alienated"

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[133] Statement of the Honorable Lee Metcalf, Member of Congress from the State of Montana, January 13, 1958, 2–3, Wee Report Footnote 422; Act of June 21, 1906, 34 Stat. 325 at 335, Wee Report Footnote 292.

[134] Statement of the Honorable Lee Metcalf, Member of Congress from the State of Montana, January 13, 1958, 3, Wee Report Footnote 422.

[135] Hatfield Chilson, Under Secretary of the Interior, to Clair Engle, Chairman, House Committee on Interior and Insular Affairs, June 25, 1957, in House, *Providing for the Restoration to Tribal Ownership of All Vacant and Undisposed-of Ceded Lands on Certain Indian Reservations*, 85th Cong., 2d sess., 1958, H. Rept. 1336, serial 12072, 2–3, USA-CDA00021990.

[136] House, *Providing for the Restoration to Tribal Ownership of All Vacant and Undisposed-of Ceded Lands on Certain Indian Reservations*, 85th Cong., 2d sess., 1958, H. Rept. 1336, serial 12072, 2, USA-CDA00021990; Senate, *Providing for the Restoration to Tribal Ownership of All Vacant and Undisposed-of Ceded Lands on Certain Indian Reservations*, 85th Cong., 2d sess., 1958, S. Rept. 1508, serial 120662, 2, USA-CDA00021994. See also Act of June 21, 1906, 34 Stat. 325 at 335–338, Wee Report Footnote 292.

from the tribe until passage of the 1958 act.[137] As shown above, the 1906 Coeur d'Alene Allotment Act contained no language indicating that the reservation's surplus lands were ceded or relinquished immediately. Moreover, the 1934 withdrawal order showed that the reservation's unsold surplus lands had "remain[ed] the property of the Indians until disposed of as provided by law." Since the restored lands were not sold or "disposed of as provided by law" before their restoration to the Coeur d'Alene Tribe in 1958, Wee's assertion that this unallotted acreage was "alienated" from the reservation during the four decades prior to 1958 is historically inaccurate.[138]

[137] Wee Report, 118, 155–156, 159.

[138] Departmental Order, approved September 19, 1934, 54 I.D. 559–564, USA-CDA00021983; Act of June 21, 1906, 34 Stat. 325 at 335, Wee Report Footnote 292; Act of May 19, 1958, 72 Stat. 121, Wee Report Footnote 426.

3. Conclusion

The interpretive inconsistencies and analytical inaccuracies discussed above call into question the conclusions drawn throughout the Wee Report, as well as casting doubt on the reliability of Wee's expert historical analysis more broadly. Importantly, the problems noted in my response to the Wee Report relate to significant, fundamental issues in the ongoing CSRBA litigation. Of primary importance are questions involving the creation of the Coeur d'Alene Indian Reservation and the historical purposes for which it was established. On both counts, the Wee Report puts forth arguments that are unsupported by the historical record.

First, Wee's assertion that the reservation was not formally or finally created until 1891 is inaccurate and misleading. As shown more fully in my initial expert report, as well as in the above rebuttal report, the Coeur d'Alene Reservation was established by executive orders promulgated in June 1867 and November 1873. Not only was the establishment of these boundaries by executive order subsequently approved by Congress, but high-ranking federal officials in the Indian Office, the Interior Department, and the War Department also acknowledged and approved the 1873 reservation boundaries on numerous occasions throughout the 1873–1891 period.

Second, the Wee Report contends that the reason why Presidents Johnson and Grant established the reservation was narrowly agricultural, rather than reflecting broader homeland purposes that encompassed traditional subsistence activities such as fishing, hunting, camas digging, and berry picking. Again, Wee's argument is not supported by the extant historical evidence. As indicated in the documents leading up to the expansion of the reservation in November 1873, tribal leaders advocated strongly for the inclusion of non-agricultural lands within the reservation that were situated along Coeur d'Alene Lake and the Coeur d'Alene, Spokane, and St. Joseph Rivers—the location of many of the Tribe's principal fisheries and traditional village sites.

The historical record also clearly shows that tribal members continued to rely on their traditional subsistence practices both before and after the 1873 expansion of the Coeur d'Alene Reservation's borders—a point Wee fails to acknowledge adequately. Instead, the Wee Report argues that tribal members were drawn away from their traditional fishing, hunting, and gathering activities by two historical events: (1) the Tribe's acquisition of horses and subsequent adoption of bison hunting; and (2) the 1840s arrival of the Jesuits in Coeur d'Alene territory and the subsequent adoption of Euroamerican farming practices by some tribal members. According to Wee, these two factors resulted in the Coeur d'Alene Tribe abandoning traditional subsistence practices prior to 1873 and moving to the present-day DeSmet area to engage wholly in agriculture.

As with his analysis of the establishment of the reservation, Wee's depiction of the impacts of bison hunting and Euroamerican farming are unsupported by the historical and anthropological

record. While ethnographers have indicated that the acquisition of horses and the adoption of bison hunting impacted Coeur d'Alene culture, there is no anthropological evidence suggesting that the Tribe abandoned its seasonal migrations to fish, hunt, and gather items such as camas, berries, and water potatoes along Coeur d'Alene waterways. Moreover, primary source documents from the early 1800s through the end of the bison hunting era in the late 1870s clearly indicate that tribal members continued to rely on fishing, hunting, and gathering for their subsistence.

Meanwhile, extant historical documents from the 1840s through the 1873 establishment of the reservation indicate that Coeur d'Alene agriculture remained extremely limited and was insufficient to support the Tribe's dietary needs. Tribal farms during this period were typically no more than a few acres in extent and were generally situated along river bottoms, such as the Cataldo Mission's farm along the Coeur d'Alene River. Moreover, those tribal members who engaged in agriculture continued to conduct their seasonal rounds of hunting, fishing, camas digging, and berry picking, while many tribal members did not farm at all during this period and instead relied solely on traditional subsistence activities.

As Coeur d'Alene farming increased during the 1880s, 1890s, and early 1900s, tribal members continued to rely on fishing, hunting, and gathering, as well as agriculture, to sustain themselves—a point that Wee acknowledges, but downplays, in his report. Primary sources from the turn of the twentieth century and beyond—most notably, the Interior Department's 1909–1910 hearings on the Washington Water Power's licensing permit—include numerous references to tribal members fishing, hunting, digging camas, picking berries, camping, and canoeing on Coeur d'Alene waterways. These activities continued to occur both inside and outside the post-1891 reservation boundaries, including areas along the lower reaches of the St. Joseph River and on Chatcolet and Benewah Lakes.

The interpretive problems present in the Wee Report also extend to issues that are not directly related to the establishment of the Coeur d'Alene Reservation. For example, Wee fails to show how the secondary sources he cites regarding non-Indian agricultural development in the Palouse region prove that tribal members never irrigated and instead used dry-farming techniques prior to 1873. Additionally, Wee mischaracterizes the 1906 Coeur d'Alene Allotment Act as having returned unallotted surplus lands to the public domain. A close reading of the 1906 act and the Interior Department's 1934 withdrawal order, however, unequivocally shows that the Tribe retained a beneficial interest in the reservation's unsold surplus lands throughout the period leading up to the 1958 Tribal Restoration Act.

The types of interpretive and analytical issues present throughout the Wee Report make it difficult to rely on any of the report's conclusions. Rather than offering historical analysis grounded in primary-source documents, Wee often uses secondary materials—or downplays critical aspects of pertinent primary sources—to draw questionable conclusions. In so doing, he undermines the credibility of his own report and analysis.